Calendar No. 816

101ST CONGRESS *2d Session*	SENATE	REPORT 101-457

FEDERAL PAY REFORM ACT OF 1990

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 2274

TO ESTABLISH A FEDERAL PAY SYSTEM WITH LOCALITY-BASED ADJUSTMENTS

together with

ADDITIONAL AND DISSENTING VIEWS

SEPTEMBER 12 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

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101ST CONGRESS
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SEPTEMBER 12 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

Mr. GLENN, from the Committee on Governmental Affairs, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany S. 2274]

The Committee on Governmental Affairs, to which was referred the bill (S. 2274) to establish a Federal pay system with locality-based adjustments, to provide for Federal pay reform, and for other purposes, having considered same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Pay Reform Act of 1990".

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TITLE I—FEDERAL PAY COMPARABILITY REFORM AND LOCALITY-BASED PAY ADJUSTMENTS

SEC. 101. POLICY.

Section 5301 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "within each pay area" after "work";

(B) in paragraph (2) by inserting "within each pay area" after "maintained"; and

(C) in paragraph (3) by striking out "pay rates for the same levels of work" and inserting in lieu thereof "and State and local government pay rates for the same levels of work within each pay area"; and

(2) in subsection (c)—

(A) in paragraph (2) by striking out "or" at the end thereof;

(B) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) chapter 54 of this title, relating to the performance management and recognition system.".

SEC. 102. LOCALITY-BASED ADJUSTMENTS.

Chapter 53 of title 5, United States Code, is amended by inserting after section 5301 the following new section:

"§ 5302. Locality-based adjustments

"(a) Locality-based pay adjustments shall be determined by the pay agent, referred to under section 5305, based on pay relative data determined by the Bureau of Labor Statistics under section 5305 for positions under statutory pay systems including professional, administrative, technical, clerical, and other positions (includ-

ing law enforcement officers). The adjustments shall be paid in wage areas surveyed by the Bureau of Labor Statistics and shall apply to each employee in a statutory pay system as defined under section 5301(c) whose permanent duty station is within the boundaries of the applicable wage area. An employee whose permanent duty station is not located within the boundaries of wage area surveyed by the Bureau of Labor Statistics shall receive that locality-based pay adjustment, if any, payable to employees in the nearest wage locality.

"(b) For purposes of pay retention under section 5363 of this title, that portion of a pay rate based on locality-based adjustments shall not be a rate of basic pay, if an employee transfers to a locality with a differing locality-based pay rate. Locality-based pay rates shall be part of basic pay for all other purposes, including retirement, life insurance, lump-sum leave payments, and severance pay.".

SEC. 103. HIGHER MINIMUM RATES; PRESIDENTIAL AUTHORITY.

Section 5303 of title 5, United States Code, is amended to read as follows:

"§ 5303. Higher minimum rates; Presidential authority

"(a) Whenever the President finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are significantly handicapped, due to any of the circumstances described in subsection (b), he may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of basic pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all step rates of the pay range for each such grade or level (including under an alternative pay schedule). However, a minimum rate so established may not exceed 160 percent of the minimum pay rate prescribed by statute (or established under an alternative pay schedule, if applicable) for the grade or level. The President may authorize the exercise of the authority conferred on him by this section by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointments in the competitive service, by such other agency as he may designate.

"(b) Authority under subsection (a) may be exercised if the Government's efforts to recruit or retain well-qualified individuals are significantly handicapped by—

"(1) the remoteness of the area or location involved;

"(2) the undesirability of the working conditions or the nature of the work involved (including exposure to toxic substances or other occupational hazards); or

"(3) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of subsection (a)) considers appropriate.

"(c) Authority under subsection (a) may be exercised with respect to positions paid under—

"(1) a statutory pay system; or

"(2) any other pay system established by or under Federal statute for civilian positions within the executive branch.

"(d) Within the limitations applicable under the preceding provisions of this section, rates of pay established under this section may be revised from time to time by the President or by such agency as he may designate. The actions and revisions have the force and effect of statute.

"(e) An increase in a rate of pay established under this section is not an equivalent increase in pay within the meaning of section 5335 and may not be considered part of basic pay of an employee.

"(f) The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system referred to in subsection (c), shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate.

"(g) The Office of Personnel Management may make appropriate locality-based adjustments under section 5302 for any position for which a rate of pay is established under this section, except any such adjustment may not exceed the minimum rate limitation under subsection (a).".

SEC. 104. PRESIDENTIAL POLICIES AND REGULATIONS.

Section 5304 of title 5, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) reviewing and reporting to the President biennially the comparison of Federal pay rates with pay rates in private enterprise and State and local governments;";

(2) in paragraph (2) by striking out "annual comparison" and inserting in lieu thereof "annual general adjustment and locality-based adjustments"; and

(3) in paragraph (4) by inserting "and State and local government" after "enterprise".

SEC. 105. ANNUAL GENERAL ADJUSTMENT AND LOCALITY-BASED ADJUSTMENTS.

(a) ADJUSTMENTS.—Section 5305 of title 5, United States Code, is amended by striking out subsections (a) through (k) and substituting in lieu thereof:

"(a)(1) In order to carry out the policy stated in section 5301 of this title, the President shall—

"(A) direct the Bureau of Labor Statistics to determine in each fiscal year the increase in wages or salaries as reflected by the employment cost index (wages and salaries, white-collar occupations excluding sales) based on information for the preceding 12-month period ending on September 30 of each year; and

"(B) direct the Bureau of Labor Statistics to determine pay relative data for each locality surveyed by examining a broad representation of positions in professional, administrative, technical, clerical, and other positions.

"(2) A pay relative shall be the average earnings in a locality expressed as a percentage of the average earnings in all wage areas combined. The wage areas surveyed shall be those areas determined by such agent as the President considers appropriate, in consultation with the Bureau of Labor Statistics. Each wage area shall be surveyed at least once every 2 years.

"(b) No later than November 1 of each year, the Bureau of Labor Statistics shall submit a report of the determinations made under subsection (a) to the pay agent referred to under subsection (a).

"(c)(1) No later than December 31 of each year, the pay agent referred to under subsection (a) shall report to the President and the Congress the annual general adjustment which shall be that percentage adjustment to statutory pay rates which equals the increase in the employment cost index. The pay agent shall also report locality adjustments necessary to reflect the pay relative data determined by the Bureau of Labor Statistics. Such adjustments shall be included in the budget next transmitted under section 1105(a) of title 31, United States Code by the President to the Congress after the date of the submission of the agent's report.

"(2) The employment cost index adjustment described under paragraph (1) shall be rounded to the nearest tenth of a percent. The locality-based adjustment described under paragraph (1) shall be rounded to the nearest tenth of a percent.

"(d) Except as provided in subsection (e) of this section, the President shall make adjustments in the rates of pay of each statutory pay system equal to the sum of the general annual adjustment and any locality-based adjustment figures as reported under subsection (c) of this section and in accordance with the principles of section 5301(a) of this title, effective as of the beginning of the first applicable pay period beginning on or after October 1 of the applicable year.

"(e)(1) If the President determines that the annual general adjustment should be limited in the event of national emergency or serious economic conditions affecting the general welfare, the President shall prepare and report that determination to the Congress in the budget transmittal described under subsection (c) of this section. Based on such a determination, the President may reduce the annual general adjustment—

"(A) by 0.5 percent for any increase of 5 percent or less; or

"(B) by 1 percent for any increase more than 5 percent.

"(2) If the President makes a determination to limit the annual general adjustment under paragraph (1), such annual general adjustment may not exceed 8 percent in any year.".

(b) REDESIGNATIONS.—Section 5305 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (f);

(2) by striking out subsection (m); and

(3) by redesignating subsections (n) through (r) as subsections (g) through (k), respectively.

SEC. 106. FEDERAL PAY COUNCIL.

Section 5306 of title 5, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) The President shall establish a Federal Pay Council of 9 members, of whom—

"(A) 3 shall be chosen from among persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy; and

"(B) 6 shall be representatives of employee organizations which represent substantial numbers of employees holding General Schedule positions, and who shall be selected with due consideration to such factors as the relative numbers of employees represented by the various organizations, except that not more than 3 members of the Council at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

"(2) Members of the Council who are not otherwise employees of the United States shall neither receive pay nor be considered to be employees by reason of service as such members.

"(3) The pay agent, referred to under section 5305, shall—

"(A) provide for meetings with the Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any, of the members of the Council regarding—

"(i) the establishment or modification of pay localities;

"(ii) the coverage of the annual survey conducted by the Bureau of Labor Statistics under section 5305(a) (including, but not limited to, the occupations, establishment sizes, and industries, to be surveyed, and how pay localities are to be surveyed); and

"(iii) the process of comparing the rates of pay payable under the General Schedule with rates of pay for the same levels of work performed by non-Federal workers;

"(B) give thorough consideration to the views and recommendations of employee organizations not represented on the Council regarding the subjects in subparagraph (A); and

"(C) include in its report to the President the views and recommendations submitted as provided in this subsection by the Council, by any member of the Council, and by employee organizations not represented on the Council.";

(2) in subsections (c) through (f) by striking out "Committee" each place it appears and inserting in lieu thereof "Council" in each such place; and

(3) by striking out subsections (g) and (h) and inserting in lieu thereof:

"(g) The Council may appoint and fix the pay of such personnel as may be necessary to carry out its function, except such personnel may not exceed 20 persons. One such person may be an Executive Director whose rate of pay may not exceed the annual rate of basic pay of level V of the Executive Schedule.".

SEC. 107. PAY LIMITATION.

Section 5308 of title 5, United States Code, is amended to read as follows:

"§ 5308. Pay limitation

"Except for locality-based adjustments alone or in combination with rates set under section 5303, pay may not be paid, by reason of any provision of this subchapter, at a rate in excess of the rate of basic pay for level V of the Executive Schedule. Pay adjusted in accordance with this subchapter, including any locality-based adjustment, may not exceed the rate of basic pay for level II of the Executive Schedule.".

SEC. 108. CRITICAL-POSITION PAY AUTHORITY.

Subchapter I of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5309. Critical-position pay authority

"(a) The Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, may, from time to time, allocate and reallocate among the departments and agencies of the executive branch, critical-position pay authority for not to exceed a Government-wide total of 800 positions.

"(b) The head of an agency that receives an allocation of critical-position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Personnel Management under subsection (a).

"(c) For purposes of this section, 'critical-position pay authority' means the authority for the head of an agency, notwithstanding any other law, including any provision of this chapter, to fix the rate of basic pay for any position which such agency head determines to be a critical position at an annual rate that does not exceed the

rate in effect for level I of the Executive Schedule, except that the aggregate annual amount paid (including any allowance, bonus, award, or other direct compensation) to an employee under this section during any fiscal year may not exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

"(d) Critical-position pay authority for a position may be reexercised when a position becomes vacant and is refilled only upon a redetermination by the agency head that the position remains a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Personnel Management required for such exercise under subsection (a) is reconfirmed by the Director of the Office of Personnel Management at the time of such reexercise.

"(e) In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider—

"(1) the extent to which the position requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

"(2) the extent to which additional compensation is necessary to recruit or retain exceptionally qualified individuals; and

"(3) the extent to which the position is critical to the agency's successful accomplishment of an important mission.

"(f)(1) The Office of Personnel Management shall establish a Critical Position Advisory Panel to make recommendations on—

"(A) the criteria that should be used to determine which positions should be critical positions; and

"(B) the qualifications that should be expected of individuals assigned to critical positions.

"(2) The panel shall be composed of members with exceptional expertise and experience in management, administration, and personnel matters.

"(h) On October 1 of each year, the Office of Personnel Management shall submit a report to the Congress listing all critical-pay positions in the Government.".

SEC. 109. REPORTS BY THE PAY AGENT.

(a) REPORT ON LOCALITY-BASED ADJUSTMENTS FOR CERTAIN EMPLOYEES.—Within 2 years after the date of the enactment of this title, the pay agent, referred to under section 5305 of title 5, United States Code, shall report to the President and the Congress on the feasibility of including within the scope of the locality-based adjustment plan those employees who are stationed outside the continental United States or in Alaska who receive allowances based on living costs and conditions of environment under section 5941 of title 5, United States Code.

(b) REPORT ON ADJUSTMENTS RELATING TO EMPLOYMENT PERFORMANCE.—Within 2 years after the date of the enactment of this title, the pay agent referred to under section 5305 of title 5, United States Code, shall report to the President and the Congress on the feasibility of linking all or part of the annual adjustments and locality-based adjustments to the employee's on-the-job performance.

(c) REPORT ON OTHER PLANS.—Within 3 years following implementation of the pay increases for fiscal year 1992, the pay agent shall submit a plan to the President and the Congress to close any remaining differences in Federal pay in comparison with private enterprise and State and local government pay rates.

(d) REPORTS ON SEPARATE PAY SYSTEMS.—Within 2 years after the date of the enactment of this title, the pay agent shall report on the desirability of establishing separate pay systems for certain occupations such as law enforcement personnel and firefighters.

SEC. 110. IMPLEMENTATION.

In the implementation of the amendments made under this title for the fiscal year beginning on October 1, 1991, the Bureau of Labor Statistics may use pay relative and locality data from commercially available sources, as necessary.

SEC. 111. EFFECTIVE DATE.

The provisions of this title and amendments made by this title shall take effect on October 1, 1990, and the annual general adjustment and any locality-based adjustments under such amendments shall take effect on the first applicable pay period beginning on or after October 1, 1991. The provisions of title 5, United States Code, (before the amendments made by this title) shall apply for pay adjustments made under section 5305 of such title before October 1, 1991.

TITLE II—MISCELLANEOUS FEDERAL PAY REFORM PROVISIONS

SEC. 201. EQUAL PAY PRINCIPLES.

Section 2301(b)(3) of title 5, United States Code, is amended by striking out "employers in the private sector" and inserting in lieu thereof "non-Federal employers".

SEC. 202. TIME OFF DUTY AS AN INCENTIVE AWARD.

Section 4502 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The Office of Personnel Management may by regulation permit agencies to grant employees time off duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Government operations. Such time off duty may not exceed 5 working days in any calendar year for any employee.".

SEC. 203. CLASSIFICATION OF GENERAL SCHEDULE POSITIONS ABOVE GS-15.

Section 5108 of title 5, United States Code, is amended—

(1) in the heading by striking out "at GS-16, 17, and 18" and inserting in lieu thereof "above GS-15";

(2) in subsection (a)—

(A) in clause (i) by striking out "GS-16, 17, and 18" and inserting in lieu thereof "a position above GS-15"; and

(B) in the sentence immediately following clause (iii) by striking out " in GS-16, 17, or 18," and inserting in lieu thereof "above GS-15,";

(3) in subsection (b)—

(A) in paragraph (1) by striking out "in GS-16, 17, and 18" and inserting in lieu thereof "above GS-15"; and

(B) in paragraph (2) by striking out "GS-16, 17, and 18" and inserting in lieu thereof "above GS-15"; and

(4) in subsection (c)—

(A) by striking out paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1) and striking out "in GS-16, 17, and 18" and inserting in lieu thereof "above GS-15" in such paragraph; and

(C) by redesignating paragraph (3) as paragraph (2) and striking out "GS-16, 17, and 18" and inserting in lieu thereof "above GS-15" in such paragraph.

SEC. 204. RECRUITMENT AND RELOCATION BONUSES, RETENTION ALLOWANCES, AND SENIOR GENERAL SCHEDULE POSITIONS.

Chapter 53 of title 5, United States Code is amended by inserting after section 5309 (as added by section 108 of this Act) the following new sections:

"§ 5310. Recruitment and relocation bonuses

"(a) The Office may authorize the head of an agency to pay a bonus to an employee who is newly appointed to a position under the General Schedule, or to an employee under the General Schedule or under any other pay authority in the executive, legislative, or judicial branch, who is required to relocate to accept a position under the General Schedule, if the Office determines that the agency would be likely, in the absence of such a bonus, to encounter difficulty in filling the position.

"(b)(1) The amount of a bonus under this section shall be determined by regulations of the Office, but may not exceed 25 percent of the annual rate of basic pay of the position to which the employee is being appointed or relocated.

"(2) Payment of a bonus under this section shall be contingent upon the employee entering into an agreement with the agency to complete a period of employment with the agency, with the required period determined pursuant to regulations of the Office. If the employee voluntarily fails to complete such period of service or is separated from the service before completion of such period of service for cause on charges of misconduct or delinquency, the employee shall repay the bonus on a pro rate basis.

"(3) A bonus under this section shall be paid as a lump sum, and may not be considered to be part of the basic pay of an employee.

"(4) Under regulations of the Office, a recruitment bonus may be paid to a newly-hired employee before the employee enters on duty.

"(c)(1) The Office shall prescribe such regulations as it considers necessary for the administration of this section.

"(2) If a labor organization representing employees of an agency under the General Schedule has been accorded exclusive recognition under section 7111 or has been granted national consultation rights under section 7113, the agency shall consult with that labor organization on any criteria the agency will use at the level of recognition for determining eligibility for and the amount of relocation bonuses under this section.

"§ 5311. Retention allowances

"(a)(1) The Office may authorize the head of an agency to pay an allowance to an employee under the General Schedule, if—

"(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services make it essential to retain the employee; and

"(2) the agency determines that the employee would be likely to leave in the absence of a retention allowance.

"(b)(1) A retention allowance, which shall be stated as a percentage of the rate of basic pay of the employee, may not exceed 25 percent of such rate of basic pay.

"(2) A retention allowance may not be considered to be part of the basic pay of an employee, and the reduction or elimination of a retention allowance may not be appealed.

"(3) A retention allowance shall be paid in the same manner and at the same time as the employee's basic pay is paid.

"(c)(1) The Office shall prescribe such regulations as it considers necessary for the administration of this section.

"(2) If a labor organization representing employees of an agency under the General Schedule has been accorded exclusive recognition under section 7111 or has been granted national consultation rights under section 7113, the agency shall consult with that labor organization on any criteria the agency shall use at the level of recognition in determining eligibility for and the amount of allowances under this section.

"§ 5312. Pay for senior General Schedule positions

"(a)(1) This section applies to employees in—

"(A) positions that are classified above GS–15 under section 5108, but that are not—

"(i) Senior Executive Service positions under section 3132; or

"(ii) positions in the Federal Bureau of Investigation and the Drug Enforcement Administration Senior Executive Service under section 3151; and

"(B) scientific and professional positions established under section 3104.

"(2) An employee paid under this section shall not be covered by sections 5302, 5303, and 5304, but shall be subject to the other provisions of this subchapter.

"(b) Subject to regulations and criteria prescribed by the Office of Personnel Management, the head of an agency may set the rate of basic pay of a position to which this section applies at not less than 120 percent of the minimum rate for GS–15 nor more than the rate for level IV of the Executive Schedule.".

SEC. 205. MINIMUM RATE FOR NEW APPOINTMENTS.

Section 5333(a) of title 5, United States Code, is amended by striking out "in GS–11 or above" and inserting in lieu thereof "in the General Schedule or other statutory pay system".

SEC. 206. PAY FOR ADMINISTRATIVE LAW JUDGES.

(a) IN GENERAL.—Section 5372 of title 5, United States Code, is amended to read as follows:

"§ 5372. Administrative law judges

"(a)(1) The President shall, in his sole discretion, establish and from time to time adjust 3 or more rates of basic pay for administrative law judges, of which the minimum rate may not be less than 120 percent of the minimum rate for GS–15, as in effect from time to time, and the maximum rate may not be more than the rate for level IV of the Executive Schedule, as in effect from time to time.

"(2) The rates of basic pay that are established and adjusted under this subsection shall be printed in the Federal Register and shall supersede any prior rates of basic pay for administrative law judges.

"(b) The Office of Personnel Management shall determine, in its sole discretion, at which rate of basic pay each administrative law judge shall be paid. In making such determination, the Office shall consider the complexity and variety of the cases assigned to the administrative law judge, and any administrative responsibilities of the administrative law judge, and may consider the administrative law judge's

length of service as an administrative law judge. Notwithstanding section 1104(a)(2), this authority may not be delegated to the head of any agency.

"(c) The Office of Personnel Management shall prescribe such regulations as it considers necessary for the administration of this section.".

(b) LIMITATION ON PAY.—Section 5373 of title 5, United States Code, is amended by striking out "maximum rate for GS–18" and inserting in lieu thereof "rate for level IV of the Executive Schedule".

SEC. 207. SENIOR EXECUTIVE SERVICE PAY ADJUSTMENT CORRESPONDING TO GENERAL SCHEDULE PAY ADJUSTMENT.

Section 5382(c) of title 5, United States Code, is amended to read as follows:

"(c) Subject to subsection (b), effective at the beginning of the first applicable pay period commencing on or after the effective date of an adjustment in the rates of basic pay of the General Schedule or of the rates of pay of the Executive Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount determined by the President in his sole discretion to be appropriate.".

SEC. 208. ADVANCES OF PAY.

Section 5522 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) Under regulations prescribed by the Office of Personnel Management, an agency may provide for the advance payment of basic pay, covering not more than 2 pay periods, to any individual who is newly appointed to a position in the agency and who has to relocate to accept such appointment."; and

(3) in subsection (d), as redesignated, by striking out "subsection (a)" both times it occurs and inserting in lieu thereof "subsection (a) or (c)".

SEC. 209. PREMIUM PAY AMENDMENTS.

Subchapter V of chapter 55 of title 5, United States Code, is amended—

(1) in section 5542 by adding at the end thereof the following new subsection:

"(c) This section shall not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid non-work status shall be deemed to be hours of work.";

(2) in section 5544 by adding at the end of subsection (a) "This section, other than the sixth sentence, shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid non-work status shall be deemed to be hours of work.";

(3) in section 5545(d)—

(A) by striking out "irregular or intermittent"; and

(B) by amending paragraph (1) to read as follows:

"(1) may apply to an employee in a position which by its nature inherently involves physical hardship or hazard only if the Office determines such application to be appropriate; and"; and

(4) in section 5547 by amending subsection (b) to read as follows:

"(b)(1) Subject to regulations prescribed by the Office of Personnel Management, the provisions of the first sentence of subsection (a) shall not apply to an employee who is paid premium pay by reason of work on, or in support of, an emergency involving a direct threat to life or property, including a forest wildlife emergency.

"(2) Notwithstanding paragraph (1), no employee (other than an employee subject to the second sentence of subsection (a)) may be paid premium pay under sections 5542, 5545 (a), (b), and (c), and 5546 (a) and (b) to the extent that the aggregate of basic and premium pay for such employee for the aggregate of all pay periods in any calendar year would otherwise exceed the maximum annual rate of basic pay for GS–15 in effect at the end of such calendar year.".

SEC. 210. TRAVEL AND TRANSPORTATION EXPENSES FOR CANDIDATES AND NEW APPOINTEES.

Chapter 57 of title 5, United States Code, is amended—

(1) in section 5703—

(A) in the section heading by inserting after "pay" the following: "; interview expenses"; and

(B) by adding at the end thereof the following: "An individual being considered for employment by an agency may be paid travel or transportation

expenses under this subchapter to travel to and from pre-employment interviews determined necessary by the agency.";

(2) in section 5723—

(A) in the section heading by striking out "; manpower shortage positions"; and

(B) in subsection (a) by amending paragraph (1) to read as follows:

"(1) travel expenses of a new appointee or a student trainee when assigned on completion of college work; and";

(3) by repealing section 5752; and

(4) in the table of sections for such chapter—

(A) by amending the item relating to section 5703 to read as follows:

"5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay; interview expenses.";

(B) by amending the item relating to section 5723 to read as follows:

"5723. Travel and transportation expenses of new appointees and student trainees.";

and

(C) by striking out the item relating to section 5752.

SEC. 211. UNIFORM ALLOWANCES.

Subchapter I of chapter 59 of title 5, United States Code, is amended—

(1) in section 5901(a) by striking out "$125" each place it appears and inserting in lieu thereof "$400";

(2) by amending section 5902 to read as follows:

"§ 5902. Increase in maximum uniform allowances

"Notwithstanding section 5901, the Office of Personnel Management may from time to time, by regulation, adjust the maximum amount for the cost of uniforms and the maximum allowance for uniforms under section 5901, and such adjustment shall also adjust the amount prescribed under the first sentence of section 5901."; and

(3) by amending section 5903 to read as follows:

"§ 5903. Regulations

"The Office of Personnel Management may prescribe such regulations as it considers necessary for the administration of this subchapter.".

SEC. 212. EXTENSION OF PHYSICIANS COMPARABILITY ALLOWANCES.

Section 5948(d) of title 5, United States Code, is amended—

(1) by striking "September 30, 1990" and inserting in lieu thereof "September 30, 1995"; and

(2) by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

SEC. 213. REEMPLOYMENT OF RETIREES.

(a) CIVIL SERVICE RETIREMENT SYSTEM RETIREES.—Section 8344 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency, waive the application of the provisions of this section on a case-by-case basis to fill vacancies in scientific, technical, professional, or administrative positions for which there is exceptional difficulty in recruiting qualified applicants. An employee to whom such waiver applies shall not be deemed an employee for the purposes of chapter 83 or 84 while such waiver is in effect. The Office shall prescribe regulations establishing criteria for the exercise of this authority.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM RETIREES.—Section 8468 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency, waive the application of the provisions of this section on a case-by-case basis to fill vacancies in scientific, technical, professional, or administrative positions for which there is exceptional difficulty in recruiting qualified applicants. An employee to whom such waiver applies shall not be deemed an employee for the purposes of chapter 83 or 84 while such waiver is in effect. The Office shall prescribe regulations establishing criteria for the exercise of this authority.".

(c) ADMINISTRATION BY THE OFFICE OF PERSONNEL MANAGEMENT.—In the administration of the provisions of sections 8344(i) and 8468(f) of title 5, United States Code

(as added by the amendments under this section) the Office of Personnel Management shall ensure that the combined number of waivers granted under such sections shall not apply to more than 1,250 positions at any time.

SEC. 214. COMPENSATION OF STANDING TRUSTEES APPOINTED UNDER TITLES 11 AND 28, UNITED STATES CODE.

(a) COMPENSATION.—Section 586(e)(1)(A) of title 28, United States Code, is amended to read as follows:

"(A) a maximum annual compensation for such individual consisting of—

"(i) an amount not to exceed the highest annual rate of basic pay in effect for level V of the Executive Schedule; and

"(ii) the cash value of employment benefits comparable to the employment benefits provided by the United States to individuals who are employed by the United States at the same rate of basic pay to perform similar services during the same period of time; and".

(b) APPLICATION TO ALL STANDING TRUSTEES.—The amendment made by subsection (a) shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Pub. Law 99-54; 100 Stat. 3121) apply.

SEC. 215. ADJUSTMENTS OF COMPENSATION IN PAY OF UNIFORMED SERVICES.

(a) Section 1009 of title 37, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Effective on October 1, 1991, and on the first day of October of each year thereafter, the President shall make an adjustment, by a percentage determined by the President, in the current rates of—

"(1) the monthly basic pay authorized members of the uniformed services pursuant to section 203(a) of this title;

"(2) the basic allowance for subsistence authorized members of the uniformed services pursuant to section 402 of this title; and

"(3) the basic allowance for quarters authorized members of the uniformed services pursuant to section 403(a) of this title.";

(2) in subsection (b) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof:

"(1) be based on the rates of the various elements of compensation as defined in, or made under, section 402 or 403 of this title, or this section; and

"(2) subject to subsections (c) and (d) of this section, provide all eligible members with the same overall percentage increase in each element of compensation set forth in subsection (a) of this section.";

(3) in subsections (c) (1) and (2) and subsection (d)(2)(A) by striking out "subsection (b)(3)" each place that it appears and inserting in lieu thereof "subsection (b)(2)";

(4) in subsection (d)(2)(B) by striking out "in the General Schedule rates of basic pay for civilian employees" and inserting in lieu thereof "described in subsection (b)(2) of this section"; and

(5) by adding at the end thereof the following new subsection:

"(g) Basic pay authorized for members of the uniformed services may not be paid at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule under title 5.".

SEC. 216. COMPENSATION FOR AGENCY BOARDS OF CONTRACTS APPEALS.

Section 8(b) of the Contract Disputes Act of 1978 (41 U.S.C. 607(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "GS-18 under the General Schedule contained in section 5332, United States Code," and inserting in lieu thereof "rate 6 in the Senior Executive Service established under section 5382 of title 5, United States Code,";

(B) by striking out "GS-17 under such General Schedule," and inserting in lieu thereof "rate 5 in the Senior Executive Service established under section 5382 of such title,";

(C) by striking out "GS-16 under such General Schedule" and inserting in lieu thereof "rate 4 in the Senior Executive Service established under section 5382 of such title"; and

(D) striking out the fifth sentence; and

(2) in paragraph (2)—

(A) by striking out "GS-18 under the General Schedule contained in section 5332, United States Code," and inserting in lieu thereof "rate 6 in the

Senior Executive Service established under section 5382 of title 5, United States Code,"; and

(B) by striking out "GS-16 under such General Schedule" and inserting in lieu thereof "rate 4 in the Senior Executive Service established under section 5382 of title 5, United States Code,".

SEC. 217. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect on October 1, 1990, and any adjustments in pay under such provisions shall take effect on such date as determined by the Office of Personnel Management, but no later than the first applicable pay period beginning on or after October 1, 1991.

TITLE III—ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS PERSONNEL

SEC. 301. SHORT TITLE.

This title may be cited as the "Administrative Office of the United States Courts Personnel Act of 1990".

SEC. 302. DEFINITIONS.

For purposes of this title the term—

(1) "Director" means the Director of the Administrative Office of the United States Courts;

(2) "employee" means any employee of the Administrative Office of the United States Courts, except any employee referred to in section 603 of title 28, United States Code; and

(3) "Office" means the Administrative Office of the United States Courts.

SEC. 303. GENERAL PERSONNEL AUTHORITY.

The Director of the Administrative Office of the United States Courts may appoint, fix the compensation of, assign, and direct such personnel as the Director determines necessary to discharge the duties and functions of the Administrative Office.

SEC. 304. ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM.

(a) ESTABLISHMENT.—The Director shall establish a personnel management system for the Office—

(1) which provides for the appointment, pay, promotion, and assignment of all employees on the basis of merit; and

(2) to which the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive civil service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates shall not apply.

(b) PERSONNEL MANAGEMENT SYSTEM.—The personnel management system established under subsection (a) shall, at a minimum—

(1) provide for a schedule of pay rates applicable to all employees;

(2) provide that the basic rate of pay of any person appointed under this section shall not exceed the rate of basic pay for level V of the Executive Schedule, except as provided in paragraph (11);

(3) incorporate pay comparability principles as set forth under section 5301(a) of title 5, United States Code;

(4) provide for the adjustment of the pay of employees at the same time and in the same percentage amount as rates of basic pay are adjusted for General Schedule and prevailing rate employees, as appropriate;

(5) establish procedures for employee evaluations, the granting of periodic pay adjustments, incentive awards, and resolution of employee grievances;

(6) establish procedures for disciplinary actions, including reduction in grade or pay, suspension, and removal, based on unacceptable performance or misconduct, except that the Director may exempt from such procedures positions of a confidential or policy-determining character, not to exceed 4 percent of the authorized positions of the Office;

(7) establish procedures for premium pay (including overtime) similar to the provisions of subchapter V of chapter 55 of title 5, United States Code;

(8) include the merit system principles set forth under section 2301(b) of title 5, United States Code;

(9) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code;

(10) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

(11) provide for the basic rate of pay of not more than 5 percent of the authorized positions of the Office (excluding the positions referred to in section 603 of title 28, United States Code) to be set at rates not to exceed the rate of basic pay for positions at level IV of the Executive Schedule.

SEC. 305. ADMINISTRATIVE PROVISIONS.

(a) WORK SCHEDULES.—In establishing procedures under section 304(b)(7) the Director may at his discretion implement flexible and compressed work schedules and may exempt the hours constituting such schedules from premium pay to the extent the Director determines necessary to implement such schedules.

(b) DISCRIMINATION COMPLAINTS.—In implementing the provisions of section 304(b)(10), the Director shall, no later than 6 months after the date of the enactment of this title, promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment.

(c) PAY LIMITATION.—Notwithstanding any other provision of this section, aggregate pay in any 1 year period (including basic pay and incentive awards) of any individual whose basic rate of pay is set under this title may not exceed the annual aggregate pay computed at the basic rate of pay for the position of the Director.

(d) TRAVEL EXPENSES AND LEAVE FOR CERTAIN POSITIONS.—The Director may apply the provisions of sections 5723 and 6304(f) of title 5, United States Code, to the positions referred to under section 304(b)(11) and in section 603 of title 28, United States Code, including the Deputy Director.

(e) INCENTIVE AWARDS FOR CERTAIN POSITIONS.—The Director may provide for incentive awards for the positions referred to in section 603 of title 28, United States Code, including the Deputy Director, subject to the aggregate pay limitation under subsection (c).

(f) PAY, INCENTIVE AWARDS, AND TRAVEL EXPENSES OF DIRECTOR.—The Chief Justice of the United States or the Judicial Conference of the United States may grant incentive awards to the Director, except that the Director's aggregate pay for any fiscal year, including aggregate annual pay and incentive awards, may not exceed the aggregate annual pay of a United States circuit judge. The Chief Justice or the Judicial Conference may authorize application of section 5723 of title 5, United States Code, to the Director.

(g) TRAINING PROGRAMS.—The Director may develop and conduct programs to meet the short and long range training needs of the agency.

(h) EMPLOYEE GRIEVANCES AND APPEALS.—(1) Notwithstanding any other provision of law, an individual who is an employee of the Office on the day before the effective date of this title and who, as of that day, was entitled to—

(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code, or

(C) file an appeal with the Equal Employment Opportunity Commission under 29 CFR, Part 1613,

shall continue to be entitled to file such appeal so long as the individual remains an employee of the Office.

(2) The provisions of paragraph (1) shall not apply to employees in positions referred to in section 603 of title 28, United States Code, or in positions of a confidential or policy-determining character described under section 304(b)(11).

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1990 and for each year thereafter such sums as may be necessary to carry out the provisions of this title.

SEC. 307. EFFECTIVE DATE.

The provisions of this title shall take effect 60 days after the date of the enactment of this title.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 401. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) TABLE OF SECTIONS.—The table of sections for subchapter I of chapter 53 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER I—PAY COMPARABILITY SYSTEM

"Sec.
"5301. Policy.
"5302. Locality-based adjustments.
"5303. Higher minimum rates; Presidential authority.
"5304. Presidential policies and regulations.
"5305. Annual general adjustment and locality-based adjustments.
"5306. Federal Pay Council.
"5307. Pay fixed by administrative action.
"5308. Pay limitation.
"5309. Critical position pay authority.
"5310. Recruitment and relocation bonuses.
"5311. Retention allowances.
"5312. Pay for Senior General Schedule positions.".

(b) SECTION HEADINGS.—(1) The heading for section 5305 of title 5, United States Code, is amended to read as follows:

"§ 5305. Annual general adjustment and locality-based adjustments".

(2) The heading for section 5306 of title 5, United States Code, is amended to read as follows:

"§ 5306. Federal Pay Council".

SEC. 402. AMENDMENTS RELATING TO POSITIONS ABOVE GS-15.

(a) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—(1) All citations in this subsection shall refer to title 5, United States Code.

(2)(A) Section 3132(a)(2) is amended in the first sentence by striking out "in GS-16, 17, or 18" and inserting in lieu thereof "above GS-15".

(B) The table of sections for chapter 33 is amended by amending the item relating to section 3324 to read as follows:

"3324. Appointments above GS-15.".

(C) Section 3304a(a) is amended in the first sentence by striking out "in GS-16, GS-17, or GS-18" and inserting in lieu thereof "above GS-15".

(D) The heading for section 3324 is amended by striking out "at GS-16, 17, and 18" and inserting in lieu thereof "above GS-15".

(E) Section 3324(a) is amended in the first sentence by striking out "in GS-16, 17, or 18" and inserting in lieu thereof "above GS-15".

(F) Section 3405(b) is amended by striking out "for GS-16" and inserting in lieu thereof "above GS-15".

(G) The table of sections for chapter 51 is amended by amending the item relating to section 5108 to read as follows:

"5108. Classification of positions above GS-15.".

(H) Section 5102(25) is amended by striking out "for GS-18" and inserting in lieu thereof "for level IV of the Executive Schedule".

(I) Section 5104 is amended by striking out paragraphs (16), (17), and (18).

(J) Section 5109(b) is amended by striking out "at GS-18" and inserting in lieu thereof "above GS-15".

(K) Section 5371 is amended by striking out "GS-18" and inserting in lieu thereof "level IV of the Executive Schedule".

(L) Section 5382(b) is amended by striking out "for GS-16" and inserting in lieu thereof "above GS-15".

(M) Section 5595(a)(2)(B)(ii) is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(N) Section 5723(a)(1)(C) is amended by striking out "GS-16" and inserting in lieu thereof "above GS-15 of the General Schedule".

(O) Section 8476(d)(1) is amended by striking out "grade GS-18" and inserting in lieu thereof "above GS-15".

(b) AMENDMENTS TO OTHER PROVISIONS OF LAW.—(1) Section 204 of House Resolution 988 of the Ninety-third Congress enacted into law by chapter III of title I of Public Law 93-554 (2 U.S.C. 29b(b)(3)) is amended by striking out "in grade GS-18" and inserting in lieu thereof "above GS-15".

(2) The Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.) is amended—

(A) in section 101(f)—

(i) in paragraph (3)—

(I) by striking out "at GS-16 or above" and inserting in lieu thereof "above GS-15"; and

(II) by striking out "for GS-16" and inserting in lieu thereof "for above GS-15"; and

(ii) in paragraph (6) by striking out "GS-16" and inserting in lieu thereof "above GS-15";

(B) in section 109—

(i) in paragraph (8) by striking out "grade GS-16" and inserting in lieu thereof "above GS-15"; and

(ii) in paragraph (13)(B)—

(I) in clause (i) by striking out "grade GS-16" and inserting in lieu thereof "above GS-15"; and

(II) in clause (ii) by striking out "grade GS-16" and inserting in lieu thereof "above GS-15";

(C) in section 501—

(i) in paragraph (1) by striking out "grade GS-16" and inserting in lieu thereof "above GS-15"; and

(ii) in paragraph (2) by striking out "grade GS-16" and inserting in lieu thereof "above GS-15"; and

(D) in section 502 by striking out "grade GS-16" and inserting in lieu therefore "above GS-15".

(3) Section 118(b) of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1107(b)) is amended by striking out "in grade GS-18" and inserting in lieu thereof "above GS-15".

(4) Section 119(a)(2) of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1108(a)(2)) is amended by striking out "for grade GS-18" and inserting in lieu thereof "above GS-15".

(5) Section 105 of title 3, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (2)(C) by striking out "GS-18" and inserting in lieu thereof "above GS-15"; and

(ii) in paragraph (2)(D) by striking out "GS-16" and inserting in lieu thereof "above GS-15"; and (B) in subsection (b)—

(i) in paragraph (2)(A) by striking out "GS-18" and inserting in lieu thereof "above GS-15"; and

(ii) in paragraph (2)(B) by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(6) Section 106(a)(1)(C) of title 3, United States Code, is amended by striking out "GS-18" and inserting in lieu thereof "above GS-15".

(7) Section 107 of title 3, United States Code, is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (B) by striking out "GS-18" and inserting in lieu thereof "above GS-15"; and

(ii) in subparagraph (C) by striking out "GS-16" and inserting in lieu thereof "above GS-15"; and

(B) in subsection (b)(1)—

(i) in subparagraph (A)(ii) by striking out "GS-18" and inserting in lieu thereof "above GS-15"; and

(ii) in subparagraph (B) by striking out "GS-18" and inserting in lieu thereof "above GS-15".

(8) Section 7(d)(1)(A) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(9) Section 6(a)(8) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking out "grade GS-18 of the General Schedule by section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of Executive Schedule".

(10) Section 12(b) of the Commodity Exchange Act (7 U.S.C. 16(b)) is amended by striking out "GS-18 under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(11) Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(d)) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "the rate for level V of the Executive Schedule".

(12) Section 505(c) of the Federal Crop Insurance Act (7 U.S.C. 1505(c)) is amended by striking out "grade GS-18 under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(13) Section 602(d) of the Act of August 28, 1954 (68 Stat. 908, chapter 1041; 7 U.S.C. 1762(d)) is amended by striking out "grade GS-16, GS-17, or GS-18" and inserting in lieu thereof "above GS-15".

(14) Section 1412(a)(1) at the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127(a)(1)) is amended by striking out "for GS-

18 of the General Schedule established in section 5332 of title 5, United States Code" and inserting in lieu thereof "above GS-15".

(15) Section 7043(b) of title 10, United States Code, is amended by striking out "grade GS-18 of General Schedule under section 5332 of title 5" and inserting in lieu thereof "the rate for level V of the Executive Schedule".

(16) Section 1202(d) of the National Housing Act (12 U.S.C. 1749bbb-1(d)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(17) Section 205(a)(1) of the Act entitled "An Act to increase deposit insurance from $20,000 to $40,000 to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes.", approved October 28, 1974 (12 U.S.C. 2405(a)(1); Public Law 93-495) is amended by striking out "GS-18 of the General Schedule under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(18) Section 103(h) of the National Consumer Cooperative Bank Act (12 U.S.C. 3013(h)) is amended by striking out "grade GS-18 under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(19) Section 10 of the Act of March 3, 1901 (15 U.S.C. 278) is amended by striking out "in grade GS-18 of the General Schedule under section 5332 of title 5 of such Code" and inserting in lieu thereof "at the rate for level V of the Executive Schedule".

(20) Section 21(i)(2) of the Small Business Act (15 U.S.C. 648(i)(2)) is amended by striking out "under GS-18 of the General Schedule," and inserting in lieu thereof "at the rate for level V of the Executive Schedule".

(21) Section 53 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790b(b)) is amended by striking out "in grade GS-16, GS-17, or GS-18" and inserting in lieu thereof "above grade GS-15".

(22) Section 20(b)(5) of the Federal Hazardous Substances Labeling Act (15 U.S.C. 1275(b)(5)) is amended by striking out "of basic pay payable for grade GS-18 of General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "for level V of the Executive Schedule".

(23) Section 4(g) of the Consumer Product Safety Act (15 U.S.C. 2053(g)) is amended—

(A) in paragraph (1) by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in paragraph (3) by striking out "GS-16, GS-17, and GS-18" and inserting in lieu thereof "above GS-15".

(24) Section 28(g) of the Consumer Product Safety Act (15 U.S.C. 2077(f)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "grades above GS-15".

(25) Section 202(d)(1) of the National Productivity and Quality of Working Life Act of 1975 (15 U.S.C. 2412(d)(1)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(26) Section 401 of the National Productivity and Quality of Working Life Act of 1975 (15 U.S.C. 2451) is amended—

(A) in paragraph (5) by striking out "GS-18 under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in paragraph (8) by striking out "GS-18 under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(27) Section 5205(f)(1)(A) of the Competitiveness Policy Council Act (15 U.S.C. 4804(f)(1)(A)) is amended by striking out "GS-18 of the General Schedule pursuant to section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(28) Section 5206(a)(1) of the Competitiveness Policy Council Act (15 U.S.C. 4805(a)(1)) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(29) Section 1303(g)(3) of the International Security and Development Cooperation Act of 1985 (16 U.S.C. 469j(g)(3)) is amended by striking out "grade GS-18 of General Schedule (5 U.S.C. 5332(a))" and inserting in lieu thereof "level V of the Executive Schedule".

(30) Section 319(a)(2)(B) of the Federal Power Act (16 U.S.C. 825q-1(a)(2)(B)) is amended by striking out "GS-18 of General Schedule under section 5332 of title 5 of

the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(31) Section 4 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839b) is amended—

(A) in subsection (a)(3) by striking out "step one of level GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (b)(3)—

(i) by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "V of the Executive Schedule"; and

(ii) by striking out "step 1 of level GS-18" and inserting in lieu thereof "above GS-15".

(32) Section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) is amended—

(A) in subsection (d) by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (e) by striking out "GS-18 of General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(33) Section 203(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1403(b)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(34) Section 302(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(d)) is amended by striking out "GS-18 of General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(35) Section 11(a) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3640(a)) is amended by striking out "GS-18 of General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(36) Section 3(g)(2)(A) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(g)(2)(A)) is amended by striking out "grade GS-18 of General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(37) Section 4351 of title 18, United States Code, is amended—

(A) in subsection (d) by striking out "GS-18 by section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (f) by striking out "GS-18 by section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(38) Section 4352(a)(14) of title 18, United States Code, is amended by striking out "GS-18 by section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(39) Section 141(e)(2) of the Trade Act of 1974 (19 U.S.C. 2171(e)(2)) is amended by striking out "grade GS-18 as provided section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(40) Section 1411(d) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 929(d)) is amended by striking out "grade GS-18 in section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(41) Section 6(e) of the National Arts and Cultural Development Act of 1964 (20 U.S.C. 955(e)) is amended by striking out "grade GS-18 by section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(42) Section 8(e) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 957(e)) is amended by striking out "grade GS-18 by section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(43) Section 204(e) of the Museum Services Act (20 U.S.C. 963(e)) is amended by striking out "grade GS-18 set forth in section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(44) Section 491(h)(1) of the Higher Education Act of 1965 (20 U.S.C. 1098(h)(1)) is amended by striking out "GS-18 of General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(45) Section 932(a)(7) of the Higher Education Act of 1965 (20 U.S.C. 1134i(a)(7)) is amended by striking out "GS-18 of General Schedule under section 5332, title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule,".

(46) Section 1206(h)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1145a(h)(1)(B)) is amended by striking out "GS-18 of General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(47) Section 406(e)(9)(B) of the General Education Provisions Act (20 U.S.C. 1221e-1(e)(9)(B)) is amended by striking out "grade GS-18 of General Schedule under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(48) Section 444 of the General Education Provisions Act (20 U.S.C. 1233c) is amended by striking out "grade GS-18 in section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(49) Section 435(c) of the Elementary and Secondary Education Amendments of 1967 (20 U.S.C. 1233d(c)) is amended by striking out "grade GS-18 in section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(50) Section 603(b)(1) of the Education of the Handicapped Act (20 U.S.C. 1402(b)(1)) is amended by striking out "grade GS-18 of the General Schedule under section 5104 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(51) Section 6 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505) is amended—

(A) in subsection (b) by striking out "grade GS-18 in section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in paragraph (c)(2) by striking out "for grade GS-18 in section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(52) Section 13(a)(2) of the Harry S Truman Memorial Scholarship Act (20 U.S.C. 2012(a)(2)) is amended by striking out "grade GS-18 in section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(53) Section 4(f) of the American Folklife Preservation Act (20 U.S.C. 2103(f)) is amended by striking out "GS-18 of General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(54) The second section 1429(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2839(f)) is amended by striking out "GS-18 of General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(55) Section 5051(g)(1) of the Anti-Drug Abuse Act of 1988 (20 U.S.C. 3172 note) is amended by striking out "grade GS-18 of General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule,".

(56) Section 203(c)(4) of the Department of Education Organization Act (20 U.S.C. 3413(c)(4)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(57) Section 401(b)(1) of the Department of Education Organization Act (20 U.S.C. 3461(b)(1)) is amended by striking out "GS-16, GS-17, and GS-18" and inserting in lieu thereof "above GS-15".

(58) Section 402 of the Department of Education Organization Act (20 U.S.C. 3462) is amended by striking out "GS-18 of the General Schedule under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(59) Section 303(a)(1) of the Education of the Deaf Act of 1986 (20 U.S.C. 4343(a)(1)) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(60) Section 304(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4344(b)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(61) Section 1508(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4415(b)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(62) Section 813(b) of the James Madison Memorial Fellowship Act (20 U.S.C. 4512(b)(3)) is amended by striking out "grade GS-18 of the General Schedule set forth in section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(63) Section 814(a)(2) of the James Madison Memorial Fellowship Act (20 U.S.C. 4513(a)(2)) is amended by striking out "grade GS-18 in section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(64) Section 1410(b) of the Barry Goldwater Scholarship and Excellence in Education Act (20 U.S.C. 4709(b)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(65) Section 1411(a)(2) of the Barry Goldwater Scholarship and Excellence in Education Act (20 U.S.C. 4710(a)(2)) is amended by striking out "grade GS-18 under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(66) Section 513(b)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(b)(3)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(67) Section 514(g)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d(g)(5)(B)) is amended by striking out "grade GS-18 of the General Schedule," and inserting in lieu thereof "level V of the Executive Schedule".

(68) Section 515(g)(2)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(g)(2)(B)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(69) Section 520(f)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)(3)) is amended by striking out "grade GS-18 of the General Schedule," and inserting in lieu thereof "level V of the Executive Schedule".

(70) Section 706(b)(5)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376(b)(5)(D)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(71) Section 1003(d)(4) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(4)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(72) Section 604(c) of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1469(c)(2)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(73) Section 104 of the Act of March 14, 1980 (Public Law 96-209; 22 U.S.C. 1622d) is amended by striking out "GS-18 under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(74) Section 41(b) of the Arms Control and Disarmament Act (22 U.S.C. 2581(b)(1)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(75) Section 2(g) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(g)) is amended by striking out "GS-18 under section 5332 of such title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(76) Section 4(a)(7)(A) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2873(a)(7)(A)) is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(77) Section 4(b) of the Japan-United States Friendship Act (22 U.S.C. 2903(b)) is amended by striking out "grade GS-18 in section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(78) Section 6 of the Japan-United States Friendship Act (22 U.S.C. 2905) is amended—

(A) in paragraph (5) by striking out "a GS-18 of the General Schedule of such title" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in paragraph (6) by striking out "grade GS-18 in section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(79) Section 1102(b) of the Panama Canal Act of 1979 (22 U.S.C. 3612(b)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(80) Section 1104(b) of the Panama Canal Act of 1979 (22 U.S.C. 3614(b)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(81) Section 1010(b) of the Foreign Service Act of 1980 (22 U.S.C. 4110(b)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title

5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(82) Section 1105(c) of the Foreign Service Act of 1980 (22 U.S.C. 4135(c)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(83) Section 1706(i) of the United States Institute of Peace Act (22 U.S.C. 4605(i)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(84) Section 302 of the Diplomatic Security Act (22 U.S.C. 4832(a)) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "V of the Executive Schedule".

(85) Section 131(o) of title 23, United States Code, is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(86) Section 12 of the Act of December 22, 1974 (25 U.S.C. 640d-11; Public Law 93-531) is amended—

(A) in subsection (b)(3) by striking out "of GS-18 of the General Schedule under section 5332 of title 5" and inserting in lieu thereof "at level V of the Executive Schedule"; and

(B) in subsection (d)(1)(A) by striking out "GS-18 of the General Schedule under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(87) Section 8 of the Indian Gaming Regulatory Act (25 U.S.C. 2707) is amended—

(A) in subsection (a) by striking out "GS-18 of the General Schedule under section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (c) by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(88) Section 594(c) of title 28, United States Code, is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(89) Section 213(b)(2) of the Labor Management Relations Act, 1947 (29 U.S.C. 183(b)(2)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(90) Section 7(c)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656(c)(2)) is amended by striking out "grade GS-18 under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(91) Section 18 of the Rehabilitation Act of 1973 (29 U.S.C. 717) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(92) Section 304(e)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 774(e)(2)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(93) Section 402(a) of the Rehabilitation Act of 1973 (29 U.S.C. 782(a)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(94) Section 403(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 783(b)(1)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(95) Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) is amended—

(A) in subsection (a)(5)(A) by striking out "GS-18 under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (f)—

(i) by striking out "as a GS-18 under section 5332 of title 5, United States Code" and inserting in lieu thereof "at level V of the Executive Schedule"; and

(ii) by striking out "such title 5" and inserting in lieu thereof "title 5, United States Code".

(96) Section 506(b) of the Rehabilitation Act of 1973 (29 U.S.C. 794b(b)) is amended by striking out "grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(97) Section 512(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142(d)(1)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(98) Section 4002(h)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(h)(7)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(99) Section 105(a)(2)(B)(ii) of the Technology-Related Assistance for Individuals with Disabilities Act of 1988 (29 U.S.C. 2215(a)(2)(B)(ii)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(100) Section 102(d) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 812(d)) is amended by striking out "grade GS-18 as provided in the General Schedule under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(101) Section 9(c) of an Act entitled "An Act to establish a State Mining and Mineral Resources Research Institute program, and for other purposes", approved August 29, 1984 (30 U.S.C. 1229(c)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(102) Section 805(d)(1) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1315(d)(1)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(103) Section 332(1) of title 31, United States Code, is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(104) Section 731(e) of title 31, United States Code, is amended by striking out "GS-18 under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(105) Section 732(c)(4) of title 31, United States Code, is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(106) Section 751(e) of title 31, United States Code, is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(107) Section 6 of the Act of July 3, 1930 (33 U.S.C. 569a) is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(108) Section 5 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-16) is amended by striking out "a GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(109) Section 204 of the National Sea Grant College Program Act (33 U.S.C. 1123) is amended—

(A) in subsection (b)(2) by striking out "GS-18 of the General Schedule under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (d)(1) by striking out "GS-18 of the General Schedule under section 5332 of such title" and inserting in lieu thereof "level V of the Executive Schedule".

(110) Section 209(c)(5)(A) of the National Sea Grant College Program Act (33 U.S.C. 1128(c)(5)(A)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(111) Section 310(e) of the Federal Water Pollution Control Act (33 U.S.C. 1320(e)) is amended by striking out "grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(112) Section 315(f) of the Federal Water Pollution Control Act (33 U.S.C. 1325(f)) is amended by striking out "Grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(113) Section 515(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1374(c)(2)) is amended by striking out "grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(114) Section 6(a) of an Act entitled "An Act to establish a commission to assist in the first observance of the Federal legal holiday honoring Martin Luther King, Jr.", approved August 27, 1984 (36 U.S.C. 169j-5(a)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(115) Section 3(a) of an Act entitled "An Act to establish the United States Holocaust Memorial Council", approved October 7, 1980 (36 U.S.C. 1403(a)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(116) Section 4(a) of an Act entitled "An Act to establish the United States Holocaust Memorial Council", approved October 7, 1980 (36 U.S.C. 1404(b)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(117) Section 5 of an Act entitled "An Act to establish the United States Holocaust Memorial Council", approved October 7, 1980 (36 U.S.C. 1405) is amended—

(A) in subsection (a) by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (b)(2) by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(118) Section 3(h) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 872(h)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(119) Section 4(b) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 873(b)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(120) Section 1(e)(1) of the Act of June 25, 1938 (popularly known as the Wagner-O'Day Act) (41 U.S.C. 46(e)(1)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(121) Section 26(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(b)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(122) Section 208(c) of the Public Health Service Act (42 U.S.C. 210(c)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(123) Section 337(b)(2) of the Public Health Service Act (42 U.S.C. 254j(b)(2)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(124) Section 406(b)(4) of the Public Health Service Act (42 U.S.C. 284a(b)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(125) Section 430(c) of the Public Health Service Act (42 U.S.C. 285c-4(c)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(126) Section 442(c) of the Public Health Service Act (42 U.S.C. 285d-7(c)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(127) Section 480(b)(4) of the Public Health Service Act (42 U.S.C. 287a(b)(4)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(128) Section 485(b)(4) of the Public Health Service Act (42 U.S.C. 287c-2(b)(4)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(129) Section 505(b)(4) of the Public Health Service Act (42 U.S.C. 290aa-3a(b)(4)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(130) Section 788B(c) of the Public Health Service Act (42 U.S.C. 295g-8b(c)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(131) Section 799(g) of the Public Health Service Act (42 U.S.C. 295i(g)) is amended by striking out "GS-18 under the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(132) Section 1446(c) of the Safe Drinking Water Act (42 U.S.C. 300j-5(c)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(133) Section 1451 of the Safe Drinking Water Act (42 U.S.C. 300j-10) is amended by striking out "GS-18 of the General Schedule under section 5332 of the title 5,

United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(134) Section 1801(e)(1) of the Public Health Service Act (42 U.S.C. 300v(e)(1)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(135) Section 2119(d) of the Public Health Service Act (42 U.S.C. 300aa-19(d)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(136) Section 1122(i)(3) of the Social Security Act (42 U.S.C. 1320a-1(i)(3)) is amended by striking out "grade GS-18 in section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(137) Section 1153(d)(3) of the Social Security Act (42 U.S.C. 1320c-2(d)(3)) is amended by striking out "grade GS-18 under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(138) Section 1878(h) of the Social Security Act (42 U.S.C. 1395oo(h)) is amended by striking out "grade GS-18 in section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(139) Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(140) Section 14(c) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(c)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(141) Section 105(a)(5) of the Water Resources Planning Act (42 U.S.C. 1962a-4(a)(5)) is amended by striking out "grade GS-18 under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(142) Section 205(a)(4) of the Water Resources Planning Act (42 U.S.C. 1962b-4(a)(4)) is amended by striking out "grade GS-18 under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(143) Section 205(c) of the Water Resources Planning Act (42 U.S.C. 1962b-5(c)) is amended by striking out "grade GS-18 of the Classification Act of 1949, as amended" and inserting in lieu thereof "level V of the Executive Schedule".

(144) Section 203(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)) is amended—

(A) in paragraph (2) by striking out "grade 18 of the General Schedule of the Classification Act of 1949, as amended," and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in paragraph (9) by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(145) Section 6 of the National Aeronautics and Space Administration Authorization Act, 1968 (42 U.S.C. 2477) is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule"

(146) Section 205(b)(4) of the Older Americans Act of 1965 (42 U.S.C. 3015(b)(4)) is amended by striking out "grade GS-18 in section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(147) Section 105(c) of the Public Works Improvement Act of 1984 (42 U.S.C. 3121 note) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(148) Section 7(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(e)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(149) Section 807 of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3788) is amended—

(A) in subsection (d) by striking out "GS-18 of the General Schedule under section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (e) by striking out "GS-18 of the General Schedule under section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(150) Section 8(h)(2) of Public Law 95-155 (42 U.S.C. 4365(h)(2)) is amended by striking out "grade GS-18, as provided in the General Schedule under section 5332 of

title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(151) Section 203(c) of the Environment Quality Improvement Act of 1970 (42 U.S.C. 4372(c)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(152) Section 508(b) of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4768(b)) is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(153) Section 15(b)(3) of the Noise Control Act of 1972 (42 U.S.C. 4914(b)(3)) is amended by striking out "Grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(154) Section 402(2)(B) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5042(2)(B)) is amended by striking out "GS-18 employee under section 5332 of such title" and inserting in lieu thereof "at level V of the Executive Schedule".

(155) Section 202(b)(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5112(b)(3)) is amended by striking out "GS-18 employee under section 5322 of title 5, United States Code" and inserting in lieu thereof "at level V of the Executive Schedule".

(156) Section 202 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(b)) is amended—

(A) in subsection (b) by striking out "GS-18 of the General Schedule by section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule"; and

(B) in subsection (d) by striking out "GS-18 of the General Schedule by section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(157) Section 241(e)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(e)(5)) is amended by striking out "GS-18 of the General Schedule by section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(158) Section 205(b)(4) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6614(b)(4)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(159) Section 207(c)(2) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(c)(2)) is amended by striking out "grade GS-18 of the General Schedule by section 5332 of title 5" and inserting in lieu thereof "level V of the Executive Schedule".

(160) Section 302(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6632(d)) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(161) Section 601(a)(1) of the Department of Energy Organization Act (42 U.S.C. 7211(a)(1)) is amended by striking out "at GS-16, GS-17, or GS-18" and inserting in lieu thereof "above GS-15".

(162) Section 621 of the Department of Energy Organization Act (42 U.S.C. 7231) is amended—

(A) in subsection (b)(1) by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule";

(B) in subsection (c)—

(i) in paragraph (1) by striking out "at GS-16, GS-17, and GS-18" and inserting in lieu thereof "above GS-15"; and

(ii) in paragraph (2) by striking out "under GS-16, GS-17, and GS-18" and inserting in lieu thereof "above GS-15";

(C) in subsection (d)—

(i) by striking out "at GS-16, GS-17, and GS-18" and inserting in lieu thereof "above GS-15"; and

(ii) by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule"; and

(D) in subsection (e)—

(i) by striking out "at GS-16, GS-17, or GS-18" and inserting in lieu thereof "above GS-15"; and

(ii) by striking out "deemed GS-18" and inserting in lieu thereof "deemed at level V of the Executive Schedule".

(163) Section 623 of the Department of Energy Organization Act (42 U.S.C. 7233) is amended by striking out "grade GS-18 of the General Schedule under section 5332 of title 5, United States Code," and inserting in lieu thereof "level V of the Executive Schedule".

(164) Section 212(b)(3)(A) of the Clean Air Act (42 U.S.C. 7546(b)(3)(A)) is amended by striking out "GS-18 by section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(165) Section 605(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8104(a)) is amended by striking out "GS-18 of the General Schedule under section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(166) Section 601(b) of the Mental Health Systems Act (42 U.S.C. 9511(b)) is amended by striking out "grade GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(167) Section 143(a)(4)(A)(ii) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10163(a)(4)(A)(ii)) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(168) Section 408(2) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10248(2)) is amended by striking out "grade GS-18 of the General Schedule by section 5332 of title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(169) Section 506(b)(3) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10266(b)(3)) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(170) Section 507(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10267(e)) is amended by striking out "GS-18 of the General Schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(171) Section 7(b)(9) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(9)) is amended by striking out "grade GS-18 of such schedule" and inserting in lieu thereof "level V of the Executive Schedule".

(172) Section 13110(d) of title 46, United States Code, is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(173) Section 711(d)(1) of the Communications Act of 1934 (47 U.S.C. 611(d)(1)) is amended by striking out "grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(174) Section 10363(c) of title 49, United States Code, is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(175) Section 10383(c) of title 49, United States Code, is amended by striking out "GS-18" and inserting in lieu thereof "level V of the Executive Schedule".

(176) Section 303(a) of National Security Act of 1947 (50 U.S.C. 405(a)) is amended by striking out "grade GS-18 of the General Schedule established by section 5332 of the title 5, United States Code" and inserting in lieu thereof "level V of the Executive Schedule".

(c) AMENDMENTS RELATING TO GS-17 AND GS-16.—(1) Section 605A(c) of the Act of August 28, 1954 (7 U.S.C. 1765a(c)) is amended by striking out "GS-17" and inserting in lieu thereof "above GS-15".

(2) Section 274B(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1324b(c)(3)) is amended by striking out "grade GS-17" and inserting in lieu thereof "above GS-15".

(3) Section 207 of title 18, United States Code, is amended—

(A) in subsection (c)(2)(A)(ii) by striking out "GS-17" and inserting in lieu thereof "above GS-15"; and

(B) in subsection (e)(6) by striking out "GS-17" and inserting in lieu thereof "above GS-15".

(4) Section 202(c)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(c)(2)) is amended—

(A) by striking out "grade GS-17" and inserting in lieu thereof "above GS-15"; and

(B) by striking out "in grade GS-17" and inserting in lieu thereof "above GS-15".

(5) Section 7(d)(2)(B) of the Federal Triangle Development Act (40 U.S.C. 1106(d)(2)(B)) is amended by striking out "GS-17" and inserting in lieu thereof "above GS-15".

(6) Section 9(b) of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30,

1989, and for other purposes" approved September 27, 1988 (2 U.S.C. 178h(b)) is amended by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(7) Section 113(b) of title 3, United States Code, is amended—

(A) in paragraph (2) by striking out "GS-16" and inserting in lieu thereof "above GS-15"; and

(B) in paragraph (3) by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(8) Section 114 of title 3, United States Code, is amended by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(9) Section 3304a of title 5, United States Code, is amended in subsection (a) by striking out "in GS-16, GS-17, or GS-18," and inserting in lieu thereof "above GS-15".

(10) Section 3405 of title 5, United States Code, is amended in subsection (b) by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(11) Section 5371 of title 5, United States Code, is amended by striking out "less than minimum rate for GS-16 nor more than the maximum rate for GS-18" and inserting in lieu thereof "above GS-15".

(12) The Act of June 20, 1956 (8 U.S.C. 1553) is amended by striking out "of GS-16" and inserting in lieu thereof "above GS-15".

(13) Section 2318(b) of title 10, United States Code, is amended by striking out "GS-16 or above" and inserting thereof "above GS-15".

(14) Section 4(g)(3) of the Consumer Product Safety Act (15 U.S.C. 2053(g)(3)) is amended by striking out "in grades GS-16, GS-17, and GS-18" and inserting in lieu thereof "above GS-15".

(15) Section 103(d)(1) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)(1)) is amended by striking out "for GS-16" and inserting in lieu thereof "above GS-15".

(16) Section 11(b) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3640(b)) is amended by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(17) Section 205(c) of the Museum Services Act (20 U.S.C. 964(c)) is amended by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(18) Section 3(c)(1) of the Asbestos School Hazard Detection and Control Act of 1980 (20 U.S.C. 3602(c)(1)) is amended by striking out "grade GS-16" and inserting in lieu thereof "above GS-15".

(19) Section 6103(a) of the Training Technology Transfer Act of 1988 (20 U.S.C. 5093(a)) is amended by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(20) Section 586(e)(1)(A) of title 28, United States Code, is amended by striking out "step 1 of grade GS-16" and inserting in lieu thereof "above GS-15".

(21) Section 12(k) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661(k)) is amended by striking out "GS-16" and inserting in lieu thereof "above GS-15".

(22) Section 428(b) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 938(b)) is amended by striking out "GS-16" and inserting in lieu thereof "levels above GS-15".

(23) Section 752(b)(2) of title 31, United States Code, is amended by striking out "grade GS-16" and inserting in lieu thereof "above GS-15".

(24) Section 3801(a) of title 31, United States Code, is amended—

(A) in paragraph (4)(B) by striking out "grade GS-16" and inserting in lieu thereof "above GS-15"; and

(B) in paragraph (8)(B) by striking out "grade GS-16" and inserting in lieu thereof "above GS-15".

(25) Section 7(c) of title 35, United States Code, is amended by striking out "grade GS-16" and inserting in lieu thereof "above GS-15".

(26) (42 U.S.C. 7211(a)(1)) is amended by striking out "GS-16 of the General Schedule" and inserting in lieu thereof "above GS-15".

(d) AMENDMENT RELATING TO RULES OF THE HOUSE OF REPRESENTATIVES.—Clause 3(b)(1) of Rule XLVII of the Rules of the House of Representatives is amended by striking out "grade GS-16" and inserting in lieu thereof "above GS-15".

SEC. 403. AMENDMENTS RELATING TO THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS PERSONNEL.

(a) APPLICATION OF MERIT SYSTEM PRINCIPLES.—Section 2301(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding "and" at the end thereof;

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) PROHIBITED PERSONNEL PRACTICES.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking out ", the Administrative Office of the United States Courts,".

(c) PERFORMANCE APPRAISAL.--Section 4301(1) of title 5, United States Code, is amended—

(1) in subparagraph (A) by adding "and" at the end thereof;

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(d) AWARDS FOR SUPERIOR ACCOMPLISHMENTS.—Section 4501(1) of title 5, United States Code, is amended—

(1) by striking out subparagraph (B); and

(2) by redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.

(e) PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS.—Section 4701(a)(1) of title 5, United States Code, is amended by striking out ", the Administrative Office of the United States Courts,".

(f) PAY AND ALLOWANCES CLASSIFICATION.—Section 5102(a)(1) of title 5, United States Code, is amended—

(1) by striking out subparagraph (B); and

(2) by redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.

(g) PREVAILING RATE EMPLOYEES.—Section 5349(a) of title 5, United States Code, is amended in the first sentence by striking out "the Administrative Office of the United States Courts,".

(h) SEVERANCE PAY.—Section 5595 of title 5, United State Code, is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (C) by striking out "and" at the end thereof; and

(B) by adding at the end thereof the following new subparagraph:

"(E) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named under section 610 of title 28; and"; and

(2) in subsection (b) by amending such subsection to read as follows:

"(b)(1) Under regulations prescribed by the President or such officer or agency as he may designate, an employee who—

"(A) has been employed currently for a continuous period of at least 12 months; and

"(B) is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency;

is entitled to be paid severance pay in regular pay periods by the agency from which separated.

"(2) Notwithstanding the provisions of paragraph (1), the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section.".

(i) BACK PAY.—Section 5596 of title 5, United States Code, is amended—

(1) in subsection (a)(2) by inserting ", the Federal Judicial Center, and the courts named by section 610 of title 28" after "Courts"; and

(2) in subsection (c) in the second sentence by inserting after "employees" a comma and "or to the agencies described under subsection (a)(2) of this section".

(j) CIVIL SERVICE RETIREMENT.—(1) Section 8331(1)(v) of title 5, United States Code, is amended to read as follows:

"(v) an employee of the Administrative Office of the United States Courts, of the Federal Judicial Center, or of a court named by section 610 of title 28, if excluded by the Director of the Administrative Office under section 8347(p) of this title.".

(2) Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(p) The Director of the Administrative Office of the United States Courts may exclude from the operation of this subchapter an employee of the Administrative Office, of the Federal Judicial Center, or of a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(k) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8401(11)(i)(I) of title 5, United States Code, is amended by striking out "(v),".

(2) Section 8402(c) of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(7) The Director of the Administrative Office of the United States Courts may exclude from the operation of this chapter an employee of the Administra-

tive Office, of the Federal Judicial Center, or of a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(l) COMPENSATION OF EMPLOYEES OF THE OFFICE.—Section 602(a) of title 28, United States Code, is amended to read as follows:

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the Administrative Office of the United States Courts Personnel Act of 1990.".

(m) SPECIAL EMPLOYEES.—Section 602(b) of title 28, United States Code, is amended by striking out "604(a)(15)(B)" and inserting in lieu thereof "604(a)(16)(B)".

(n) SALARY OF DEPUTY DIRECTOR; LEAVE OF DIRECTOR.—Section 603 of title 28, United States Code, is amended—

(1) in the second sentence by striking out "of the Deputy Director"; and

(2) by inserting after the first sentence "Notwithstanding any other provision of law, the Director shall not be an employee for purposes of subchapter I of chapter 63 of title 5, United States Code. The salary of the Deputy Director shall be 92 percent of the salary of the Director.".

(o) REDESIGNATIONS.—Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating the first paragraph (19) as paragraph (18);

(2) in paragraph (22) by adding "and" after the semicolon; and

(3) in paragraph (23) by striking out the semicolon and inserting in lieu thereof a period.

SEC. 404. REFERENCES TO GS–16, 17, AND 18 POSITIONS.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to GS–16, GS–17, or GS–18 of the General Schedule shall be deemed to refer to a position classified above GS–15 under section 5108 of title 5, United States Code.

SEC. 405. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the appropriate committees of the Congress, the Office of Personnel Management shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act to the United States Code, and any other provision of law. No later than 6 months after the date of the enactment of this title, the Office of Personnel Management shall submit such recommended legislation.

SEC. 406. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title (except for the amendments made by section 403) shall take effect on such date determined by the Office of Personnel Management, but in no event shall such effective date be later than October 1, 1991.

(b) AMENDMENTS RELATING TO THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS PERSONNEL.—The amendments made by section 403 shall take effect 60 days after the date of the enactment of this title.

I. PURPOSE

The purpose of S. 2274 is to establish a Federal pay system with locality-based adjustments and to provide for other Federal pay reforms. The legislation retains the principle of pay comparability with the private sector and adds comparability with State and local governments as well.

S. 2274 provides for annual pay adjustments for all white-collar employees based on the change in non-federal white-collar pay as measured by the Employment Cost Index (ECI). It institutes a form of locality pay by providing for additional increases in those areas where the average non-federal salary exceeds the national non-federal average pay. The legislation also provides agencies with additional flexibility to address serious recruitment and retention problems.

II. Background

The Federal white-collar pay system is exhibiting widespread problems that can no longer be ignored. The popularity of pay demonstration projects, accelerated growth of special salary schedules, inability to recruit and retain critical personnel, and continuing legislative efforts to take specific agencies or occupations out of the General Schedule are all testimony to the need for reform. The following schedule shows the explosive growth in special salary rates granted in the last five years to overcome severe recruitment and retention problems:

Year:	*Number of positions with special rates*
1985	47,140
1986	64,498
1987	120,391
1988	152,450
1989	178,745
1990 [1]	198,496

[1] As of August 14, 1990.

Because of inadequate pay, the Government simply is not competitive with other employers, especially in the high-cost, high-paying urban centers of the country. In May 1990, the General Accounting Office reported that a comparison of 1988 Federal salaries for 755 jobs across the country with pay in the private sector showed the private sector paying on average 24 percent more in 90 percent of the cases.

The pay adjustment process used for over a decade has caused federal pay rates to fall far behind the rates paid in the private sector for similar jobs. Current law calls for pay comparability between the Federal and private sectors for similar jobs. However, every year since 1978, Presidents have proposed Federal pay increases at amounts lower than those received by private sector workers resulting in the 25 percent pay gap that exists today. The Office of Personnel Management estimates that Federal pay is currently at the 12th percentile which means that 88 percent of private sector employees covered by its annual survey received higher salaries for similar jobs. The following chart shows how the pay gap has widened over the years:

	Pay agent recommended	Actual pay increase	Pay gap
Year:			
1977	7.05	7.05	0
1978	8.4	5.5	2.9
1979	10.41	7.02	3.39
1980	13.46	9.11	4.35
1981	15.10	4.80	10.3
1982	18.47	4.00	14.47
1983	21.51	[1] 4.00	17.51
1984	18.28	[1] 3.50	14.78
1985	19.15	0	19.15
1986	23.79	[1] 3.0	20.79
1987	23.74	[1] 2.0	21.74
1988	26.28	[1] 4.1	22.18
1989	28.62	[1] 3.6	25.02

[1] Increases effective on January 1st of following year.

Increasingly, agency officials are complaining about the difficulties they face in hiring the staff they need to carry out their programs. For example:

Law enforcement officials say that inadequate pay is hampering their efforts to attract and retain the people needed to fight the war on drugs.

Department of Energy officials say they cannot recruit the nuclear engineers they need to run their facilities because pay is too low.

Security and Exchange Commission officials say that low pay is the biggest problem facing the agency because they can no longer hire the attorneys needed to police the markets.

In 1988, the New York Federal Executive Board, comprised of representatives of all major federal agencies in the area, made a survey to get information on the staffing situation in those agencies. The Board found recruiting and retention problems in all agencies. Among the professional occupations, the Board found that one-third of the positions were vacant. Loss rates for entry level professionals at the GS–5 and 7 levels were an incredible 50 percent and 52 percent respectively. Similarly, the Board found one-half of the clerical positions were vacant and, of those hired during the past year, 37 percent quit for higher pay elsewhere. Consequently, agencies were contracting for word processing clerical support at hourly rates equivalent to annual salaries of $42,000 substantially higher than the $18,000 per year that federal employees were being paid for the same work.

It is past time to modernize the Government's pay system to make it responsive to todays labor markets and work force demographics. For more than 20 years studies have been recommending change, with recurring themes. Paying employees on the basis of occupational labor markets and geographic differences has been recommended by the 1972 report of the Job Evaluation and Pay Review Task Force, headed by Philip M. Oliver; the General Accounting Office's 1975 report titled "Federal White-Collar Pay Systems Need Substantial Changes"; former President Ford's 1976 Panel on Federal Compensation, headed by Vice President Rockefeller; former President Carter's 1977 Federal Personnel Management Project Report; and the 1980 report of the American Society for Public Administration titled "Federal Compensation Reform, an Examination of Issues". Most of these studies also recommended expanding the survey upon which Federal salaries are based to include State and local governments.

In its 1989 report, "Leadership in America—Rebuilding the Public Service", the National Commission on the Public Service, headed by Paul A. Volcker, recommended a new pay setting process that recognizes the fact that pay differs by occupation and by localities characterized by widely different living costs and labor market pressures.

At the Committee's March 21, 1990, hearing on pay reform, the Director, Office of Personnel Management, described a comprehensive research initiative which her Office undertook in 1988 to explore alternative approaches to setting pay. The initiative involved intensive research conducted by the Office's compensation specialists and the commissioning of an independent study by the Wyatt

Company. The research conducted by both groups illustrated that the Federal pay system is out of line with the pay practices of other employers and that pay levels for similar jobs vary widely by geographic area and occupation. Both groups concluded that the current General Schedule is inflexible and cannot be sufficiently responsive to labor market forces and pay variations.

III. Major Provisions of S. 2274

PRINCIPLE OF COMPARABILITY

Since 1962, the principle of comparability of pay with the private sector for similar jobs has been the standard for setting Federal pay rates. The Committee believes this is a reasonable standard that should be retained but modified to include jobs in State and local governments. These jobs now represent a major part of the Nation's economy and one of its fastest growing sectors. Thus, it is appropriate to take State and local government pay rates into consideration when setting Federal pay rates.

INTERIM PAY SETTING PROCESS

Until such time as a long-term pay-setting process can be agreed upon, this legislation proposes an interim process of annual pay adjustments along with locality-based adjustments. The annual adjustment for all employees under the General Schedule would be the rate of change in non-federal wages as measured by the Employment Cost Index (ECI). The Committee selected the ECI for wages and salaries of all white-collar occupations excluding sales compiled by the Bureau of Labor Statistics (BLS). Sales occupations were excluded at the recommendation of the Bureau because of the extreme volatility of their wages due to flucuating bonus payments. Adjusting Federal wages annually by the change in the ECI will ensure that the pay gap will not widen further.

The President could limit the annual general pay increases if he determines that a national emergency or serious economic conditions warrant such limits. The President may reduce the annual general adjustment by 0.5 percent for any increase of 5 percent or less or by 1 percent for any increase over 5 percent. If the President makes a determination to limit the raise, it may not exceed 8 percent.

The legislation also begins the process of closing the pay gap by providing locality adjustments in those areas where the pay gap is the greatest. Locality adjustments would be made on the basis of "pay relatives" developed from BLS area wage surveys. A "pay relative" is the ratio of the average pay in a wage area to the average pay of employees nationwide. Increases would be granted in those areas where the average non-federal pay exceeds the national non-federal average. The initial annual and locality adjustments will be made in October 1991.

FEDERAL PAY COUNCIL

A 9-member Federal Pay Council would be established to consult with the President's Pay Agent on the number and boundaries of areas to be surveyed and the methodology for comparing Federal

and non-Federal pay rates. The President would appoint six members from employee unions or other employee organizations and three members who are not Federal employees.

PRESIDENT'S PAY AGENT

The Pay Agent, appointed by the President, would be responsible for determining the boundaries of the pay areas after consulting with BLS. Also, on the basis of data received from BLS, the Agent will determine the general and locality adjustments and report them to the President by December 31 each year to be included in the budget next presented to the Congress. The Agent will also be responsible for making four studies as follows:

Determine the feasibility and desirability of applying locality adjustments to nonforeign areas outside the continental United States.

Determine the feasibility of linking all or part of the pay adjustments to employee performance.

Study the desirability of establishing separate pay systems for certain occupations such as law enforcement and firefighters.

Develop a plan for closing any remaining pay gap after the new adjustments have been fully implemented.

Reports on the first three studies are due within 2 years after the date of enactment of this bill and the fourth study is due within 3 years following implementation of the pay increases for fiscal year 1992.

ADMINISTRATIVE LAW JUDGES

A special multi-level pay system would be established for Administrative Law Judges. The President will set rates for three or more levels and the Office of Personnel Management will determine the rate applicable to each individual considering the complexity and variety of cases and administrative responsibilities assigned. The minimum rate will be 120 percent of the minimum rate of a GS–15 and the maximum rate will be no higher than the Executive Schedule level IV rate.

SUPERGRADES ELIMINATED

Employees currently occupying positions at grades GS–16, 17, and 18 would be placed in a pay band and the head of each agency could set the pay of each employee at not less than 120 percent of the minimum rate for GS–15 nor more than the rate for level IV of the Executive Schedule.

CRITICAL-POSITION PAY

An exemption from current pay ceilings is made for up to 800 critically needed top jobs to be filled by "world-class" experts in scientific, technical, professional, or administrative fields. The Office of Personnel Management will allocate the 800 positions to agencies in consultation with the Office of Management and Budget. Total pay for each of these positions would be limited to the Executive Schedule level I rate. A Critical Position Advisory Panel would be established to make recommendations on (1) the criteria that

should be used to determine which positions should be critical positions and (2) the qualifications that should be expected of individuals assigned to critical positions.

RECRUITMENT, RETENTION, AND RELOCATION BONUSES

Agencies would be authorized to grant recruitment, retention, and relocation bonuses of up to 25 percent of basic pay. These bonuses will allow agencies to address some of their most pressing staffing problems and will require employee service agreements in return.

HIGHER MINIMUM RATES

As another tool to address staffing problems, the Office of Personnel Management is authorized to set minimum rates that are up to 60 percent higher than the minimum pay rate for the grade or level. The circumstances for authorizing special rates would be expanded to cover remote locations and hazardous occupations.

REEMPLOYMENT OF CIVILIAN RETIREES

The legislation authorizes the Director, Office of Personnel Management, at the request of an agency head, to waive the application of the dual compensation restrictions on a case-by-case basis to fill vacancies in scientific, technical, professional, or administrative positions for which there is exceptional difficulty in recruiting qualified applicants. Under current law, a civilian retiree's pay is reduced by the amount of retirement benefits he/she receives. These waivers would be limited to 1,250 civilian retirees.

MILITARY COMPENSATION DELINKED

Under current law, military personnel are to receive a pay increase at least equal to the raises granted to Federal white-collar employees. With the adoption of locality pay, such linkage is no longer appropriate. Thus, the legislation provides that, in the future, the President will make appropriate adjustments in the compensation of uniform personnel.

NEW PERSONNEL SYSTEM FOR COURTS PERSONNEL

Title III of the bill establishes an independent personnel system within the Administrative Office of the U.S. Courts. The Administrative Office of the U.S. Courts is the administrative arm of the Federal Judiciary and an agency of the judicial branch of the Government. The Office, which has about 500 employees, is currently under the civil service personnel system controlled by the executive branch of the Government. All of the other 22,000 judicial branch employees are covered by separate personnel systems controlled by the judicial branch of the Government. A separate system for the Office within the judicial branch will end the inappropriate and inconsistent intermingling of the two branches and will facilitate the transfer of employees between the courts and the Administrative Office.

The personnel system created by this legislation retains the safeguards of the executive branch system and protects the present appeal rights of employees of the Administrative Office. All Admin-

istrative Office personnel will continue to participate in the health and life insurance programs, the Federal retirement system, and will retain the same benefits with regard to holidays, annual and sick leave, and worker's compensation.

IV. Legislative History

S. 2274, the Federal Pay Reform Act of 1990, was introduced by Senator John Glenn on March 9, 1990 and was referred to the Governmental Affairs Committee. The Committee held hearings on the bill on March 21 and 22, 1990. The following witnesses provided testimony:

The Honorable Bill Green, United States Representative.

Ms. Constance Berry Newman, Director, Office of Personnel Management.

Mr. Richard L. Fogel, Assistant Comptroller General, General Accounting Office.

Mr. Martin L. Duggan, Chairman, Advisory Committee on Federal Pay.

Mr. I. Dwight Greenspan, Director of Compensation, GTE Corporation.

Ms. Madelyn Jennings, Senior Vice President for Personnel, Gannett Co. Inc.

Mr. Donald A. Black, Compensation Executive, Rockwell International Corporation.

Mr. John N. Sturdivant, National President, American Federation of Government Employees.

Mr. James Peirce, President, National Federation of Federal Employees.

Mr. Robert M. Tobias, National President, National Treasury Employees Union.

Mr. Michael E. Minahan, National President, Federal Managers Association.

Ms. Helene A. Benson, President, Professional Managers Association.

Ms. Dorothy I. Spinks, President, Federally Employed Women.

At the request of the Administration, on May 1, 1990, Senator William V. Roth Jr. introduced S. 2547, a comprehensive pay reform proposal developed by the Office of Personnel Management. Many of the miscellaneous provisions of that bill have been incorporated into S. 2274 as amended.

On July 25, 1990, the Committee on Governmental Affairs held a mark-up on S. 2274 as amended and, by voice vote, approved the referral of the bill to the Senate. Senator Levin voted against the bill. Senator Roth offered three amendments which passed by voice vote. The amendments were in regards to the responsibilities of the critical position advisory board, limitations on the staff of the Pay Council, and authority to pay retention bonuses and travel and transportation expenses for candidates and new appointments. Senator Roth also offered an amendment to authorize a one-time optional early retirement program which was defeated by voice vote. In addition, Senator Roth offered two other amendments dealing with the alternative pay authority of the President and merit pay.

These amendments were withdrawn after the Committee discussed alternative approaches for addressing them.

As of July 25, 1990, the bill had 4 Senate cosponsors: Lautenberg, Kerry, Burdick and Cranston.

V. Section-by-Section Analysis

The first section designates the bill as the "Federal Pay Reform Act of 1990."

TITLE I—FEDERAL PAY COMPARABILITY REFORM AND LOCALITY-BASED PAY ADJUSTMENTS

Section 101 amends section 5301 of title 5, United States Code, to revise the policy objectives under which pay will be fixed and adjusted for the General Schedule and the other statutory pay systems. In subsection 5301(a) the principle of equal pay for substantially equal work is modified to allow distinctions between different local pay areas. in subsection 5301(c) the definition of "statutory pay systems" is amended to add the performance management and recognition system to the list of statutory pay systems subject to the employment cost index-based annual general adjustment and the locality-based adjustments. The current statutory pay systems, which include the General Schedule, the Foreign Service, and the Veterans Health Services and Research Administration of the Department of Veterans Affairs, would also receive the annual general adjustment and the locality based adjustments.

Section 102 adds a new section 5302 to title 5 which describes the locality-based adjustment mechanism. Under subsection 5302(a), the Bureau of Labor Statistics (BLS) is responsible for calculating the "pay relatives" for each designated locality for positions in the General Schedule and other statutory pay systems. Using the pay relative data, the President's pay agent will be responsible for determining the locality-based adjustments necessary for each pay area as well as determining the boundaries of the pay areas. An employee whose permanent duty station is located outside the boundaries of a wage area would receive the locality-based pay adjustment, if any, payable to employees in the nearest wage locality.

Under subsection 5302(b), locality-based adjustments shall not be protected under the pay retention provisions of section 5363 of title 5. If an employee transfers to another locality, the employee's locality-based adjustment shall be fixed at the rate, if any, in effect in the new locality. If a pay relative decreases as a result of a new survey in a pay area, the locality-based adjustment for the affected positions will be reduced or eliminated accordingly. However, the locality-based adjustment shall be considered part of the employee's basic pay for purposes other than pay retention, including retirement, life insurance, severance pay, and lump-sum leave payments.

Section 103 amends the existing authority in section 5303 of title 5 to set special rates of pay under certain circumstances. These circumstances would include: (1) the remoteness of the area or location involved; (2) the undesirability of the working conditions or nature of the work involved including exposure to toxic substance or other occupational hazards; or (3) any other circumstance which

the President considers appropriate. It also would permit minimum rates to be set 60 percent higher than the minimum pay rate for the grade or level. The increases under this section would not be considered part of an employee's basic pay.

This authority to set special rates would be exercised by the Office of Personnel Management or, for positions outside the competitive service, by agencies designated by the President.

Section 104 amends section 5304 of title 5 describing the Presidential policies and regulations regarding statutory pay systems. The amended subsection 5304(a) changes the current provision which authorizes the President to have the agencies and the Office of Personnel Management prepare a report on the annual comparison of federal pay rates with national average private enterprise rates (the Professional, Administrative, Technical, and Clerical survey). This new comparison of federal pay rates with private enterprise rates and state and local government pay rates would now be made every other year. Also, it is contemplated that the President would have the report prepared by BLS for the Federal Pay Council so that the effectiveness of the new ECI and locality-based mechanisms could be measured.

Section 105 amends section 5305 of title 5 by replacing the current pay comparability mechanism for adjusting federal pay with a new process for determining changes to statutory pay systems by an annual general adjustment and by locality based adjustments.

Subsection (a)(1) of the amended section 5305 provides that the President shall direct the Bureau of Labor Statistics (BLS) to calculate each fiscal year the increase, if any, in wages and salaries as reflected by the employment cost index (ECI) for wages and salaries, white-collar occupations excluding sales. The ECI currently, measures changes in wages or salaries in the private, nonfarm sector as well as state and local governments, and the BLS would be charged with gathering that data effective September 30 of each year. BLS would also be directed to determine pay relative data for each locality surveyed using a broad representation of federal positions.

Subsection (a)(1) also requires BLS to calculate pay relatives in each of the pay areas. A pay relative is the average earnings in a given pay area expressed as a percentage of average earnings in all pay areas combined. The pay relatives would be based on both private enterprise rates and state and local government rates.

Subsection 5305(b) requires the BLS to report the applicable pay relative data to the President's pay agent by November 1 each year. It is intended that BLS would gather pay relative data in at least ½ of the pay areas each year resulting in each pay area being completely surveyed every two years.

Under section 5305(c), the President's pay agent will determine the annual general adjustment necessary to increase statutory pay rates for all employees by a percentge equal to the ECI increase, rounded off to the nearest tenth of a percent. The agent also will determine the applicable locality-based adjustments in each pay area. The locality adjustment figure will be rounded off to the nearest tenth of a percent. Where the survey data indicates that a pay relative is below the national average, there will be no reduction in pay. The President's pay agent reports to the President and

the Congress by December 31 each year the annual general adjustment and locality-based adjustments necessary for the statutory pay systems. These adjustments shall be included in the budget next transmitted by the President to the Congress.

Subsection 5305(d) provides that the annual general adjustment and the locality-based adjustments shall be implemented by the President effective the first full pay period beginning after October 1, unless limited under the provisions of subsection (e).

Subsection 5305(e) limits the authority of the President to reduce salary increases to federal employees. If the President determines that the annual general adjustment should be limited in the event of national emergency or serious economic conditions affecting the general welfare, the President may reduce the annual general adjustment by one-half of one percent for any adjustment up to 5 percent, or by one percent for any increase above 5 percent. Furthermore, based on such a determination by the President, the annual general adjustment could not exceed 8 percent.

Subsection 105(b) merely deletes one subsection of the present section 5303 and redesignate several others.

Section 106 amends section 5306 of title 5 to abolish the Advisory Committee on Federal Pay and to create a 9-member Federal Pay Council.

Subsection 5306(a) creates the Council and defines the membership to include three members from the public who are knowledgeable about labor relations and pay issues and six members from federal employee unions or management organizations. The President's pay agent meets with the Council to receive the benefit of its experience and wisdom. The pay agent takes into account the views of the Council collectively and the views of each individual member in regard to planning the surveys, determining the methodology for comparing Federal and non-Federal pay rates, and determining the number and boundaries of the pay areas to be surveyed. This section also requires the pay agent to consider the views and recommendations of any employee organizations not represented by the Council.

Other changes in section 5306 provide the Council with some of the existing authority of the Advisory Committee to obtain information from other agencies, hire experts and consultants, and appoint and fix the compensation of not more than 20 employees to assist the Council. The Council may employ an Executive Director whose rate of pay may not exceed level V of the Executive Schedule.

Section 107 amends section 5308 of title 5. The current pay ceiling on the General Schedule and other statutory pay systems at Level V of the Executive Schedule is retained but locality-based adjustments and special rates of pay under section 5303 are not included in determining pay for this limitation; however, any pay adjustments, including locality-based adjustments, cannot result in any individual receiving pay that exceeds the rate of basic pay under level II of the Executive Schedule.

Section 108 adds a new section 5309 to title 5. This section authorizes the Director of the Office of Personnel Management (OPM), in consultation with the Director of the Office of Management and Budget, to establish up to 800 "critical pay" positions

government-wide. The annual rate of pay for these positions may be set at a rate not to exceed level I of the Executive Schedule.

In determining whether a position is critical, the head of the agency must consider whether (1) the position requires an extremely high level of expertise, (2) the position requires additional compensation to recruit or retain exceptionally qualified individuals, and (3) the position is critical to successful accomplishment of an important agency mission. In addition, OPM shall establish a Critical Position Advisory Board to make recommendations on (1) the criteria for which positions should be critical and (2) the qualifications expected of individuals assigned to critical positions.

Section 109 requires certain reports by the President's pay agent. Under subsection 109(a), the agent is required to study the current cost-of-living allowance system for employees stationed in areas outside the continental United States or in Alaska under section 5941 of title 5. Since the current law does not include having locality-based adjustments in those areas, it is intended that within 2 years, the pay agent would recommend to the President and the Congress whether locality-based adjustments are feasible or desirable in those areas.

Section 109(b) requires the pay agent to study and report to the President and Congress within 2 years of enactment of this law on the feasibility of linking the annual adjustments and locality-based increases to the employee's performance on the job. It is intended that the pay agent would study examples of ongoing pay-for-performance programs such as those in place at the U.S. General Accounting Office and the China Lake office of the Department of the Navy.

Section 109(c) requires the pay agent to submit to the President and Congress within 3 years a plan to close any remaining differences in pay in comparison with private enterprise and state and local government rates.

Section 109(d) requires the pay agent to report within 2 years on the desirability of establishing separate pay systems for certain occupations such as law enforcement personnel and firefighters.

Section 110 authorizes the Bureau of Labor Statistics to use pay relative and locality from commercially available sources, as necessary, for the fiscal year beginning October 1, 1991.

Section 111 provides that the provisions of title I of the Act are effective on October 1, 1990, but the first annual general adjustment and locality-based adjustments will take effect in the fiscal year beginning October 1, 1991.

TITLE II—MISCELLANEOUS FEDERAL PAY REFORM PROVISIONS

Section 201 amends subsection 2301(b)(3) of title 5 so as to include not only private employers but also any non-federal employers, such as state and local governments, in the data to be considered by the Bureau of Labor Statistics in preparing comparability surveys regarding whether equal pay is being provided for work of equal value.

Section 202 adds a new subsection to section 4502 of title 5 that authorizes the Office of Personnel Management to permit agencies

to grant employees up to 5 days in a year of additional leave ("time off duty") as an incentive award for superior accomplishment.

Section 203 amends section 5108 of title 5 and eliminates references to the supergrade positions (GS-16, GS-17, and GS-18) and instead refers to these positions as "above GS-15."

Section 204 creates three new sections 5310; 5311; and 5312, in title 5. Under section 5310 the Office of Personnel Management may authorize agencies to pay lump-sum bonuses of up to 25 percent of basic pay to a newly appointed General Schedule employee or to an employee who must relocate to a General Schedule position. The employee must enter into a service agreement in order to receive such a bonus. Also, this section provides that the Office of Personnel Management may provide for recruitment bonuses to be paid to a new employee before the employee enters on duty. It is left to OPM to determine how best to implement this benefit.

Under section 5311, the Office of Personnel Management may authorize agencies to pay retention allowances to General Schedule employees with unusually high or unique qualifications or where the agency has a special need for the employee's services. The retention allowance, which could not exceed 25 percent of basic pay, would not be considered part of the employee's basic pay for purposes of retirement, life insurance, lump-sum leave payments, and severance pay.

Finally a new section 5312 would authorize agency heads to set the pay for senior General Schedule positions which are those positions above GS-15 but not part of the Senior Executive Service, the FBI and DEA Senior Executive Service, or scientific and professional positions established under section 3104 of title 5, United States Code. Subject to regulations and criteria prescribed by the Office of Personnel Management, the head of an agency may set the rate of basic pay for these positions (formerly described as supergrade positions) at not less than 120 percent of the minimum rate for GS-15 nor more than the rate for Level IV of the Executive Schedule.

Section 205 amends section 5333(a) of title 5 which authorizes the appointment of certain individuals at rates above the minimum rate of the appropriate grade. Currently, section 5333(a) permits such appointments based on considerations such as the existing pay, the unusually high or unique qualifications of the candidate, or the special need of the government for that individual's services, but only for positions in grades GS-11 or above. The amended section 5333(a) would permit such appointments at all grade levels in the General Schedule or other statutory pay systems.

Section 206 amends sections 5372 and 5373 of title 5 to establish a multi-level pay system for Administrative Law Judges. Under section 206(a), section 5372 is amended and the President now will set rates for three or more pay levels and the Office of Personnel Management (OPM) will determine the rate applicable to each judge. The minimum rate will be 120 percent of the minimum GS-15 rate and the maximum rate will be no higher than the Executive Schedule level IV rate. OPM shall determine the rate applicable to each administrative law judge based on the complexity and variety of cases assigned, any administrative responsibilities, and the length of service as an administrative law judge. This determination may not be delegated to the head of any agency.

Subsection 206(b) amends section 5373 of title 5, United States Code, to change the limitation on pay set by administrative action from a maximum of GS–18 to a maximum of level IV of the Executive Schedule.

Section 207 amends section 5382(c) of title 5, United States Code, to provide that the rate of basic pay for the Senior Executive Service is to be adjusted by the President when either the General Schedule or the Executive Schedule is adjusted.

Section 208 amends section 5522 and 5373 of title 5, United States Code, to allow agencies to pay newly hired persons an advance of up to two pay periods' basic pay if they have to relocate to accept the job.

Section 209 consists of various amendments, mostly conforming in nature, to subchapter V of chapter 55 of title 5, United States Code, concerning premium pay. One substantive amendment would eliminate the current duplicative overtime computations for General Schedule and prevailing rate employees covered by both subchapter V and the Fair Labor Standards Act. Another amendment is to allow employees involved in certain emergency work, including a forest wildlife emergency, to receive premium pay without regard to the usual biweekly limit on premium pay.

Section 210 amends Chapter 57 of title 5. Section 5703 is amended to allow the payment of travel or transportation expenses for pre-employment interviews for experts and consultants. In addition, clarifying amendments are made to section 5723 to delete the reference to manpower shortage category employees and to incorporate the authority in section 5752 (which is repealed) to pay travel expenses for Senior Executive Service candidates for pre-employment interviews.

Section 211 amends sections 5901,. 5902, and 5903 of title 5, United States Code, to increase the maximum uniform allowance from $125 per year to $400 per year, to permit the Office of Personnel Management to adjust this maximum in the future by regulation, and to substitute the Office of Personnel Management in place of the President as the entity authorized to promulgate the regulations necessary to implement the uniform allowance.

Section 212 amends subsection 5948(d) of title 5, United States Code, to extend the physicians' comparability allowance program by permitting service agreements to be entered into until September 30, 1995, and to allow such periods of service to run until September 30, 1997.

Section 213 amends sections 8344 and 8468 of title 5, United States Code, to permit the Director of Office of Personnel Management to waive, on a case-by-case basis, the normal financial penalties on reemployed civilian retirees when there is exceptional difficulty in filling a scientific, technical, professional, or administrative position. Such waivers are limited to 1,250 positions government-wide.

Section 214 amends subsection 586(e)(1)(A) of title 28 to set the pay of trustees in chapter 13 bankruptcy actions not to exceed the maximum payable at level V of the Executive Schedule plus the cash value of benefits provided Federal workers in comparable positions in terms of pay and duties.

Section 215 amends section 1009 of title 37 to provide for the president to determine an appropriate percentage by which to adjust the basic pay and allowance for quarters and subsistence of members of the uniformed services every October 1.

Section 216 provides that members of the boards of contract appeals, as set forth in subsection 607(b) of title 41, United States Code, will be paid at prescribed rates for the Senior Executive Service, level 6 for Chairmen, level 5 for Vice Chairman, and level 4 for other members.

Section 217 provides that the amendments made by this title shall take effect on October 1, 1990, except that any adjustments in pay shall take effect on such date as determined by the Office of Personnel Management but no later than the first applicable pay period on or after October 1, 1991.

TITLE III—ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS PERSONNEL

Section 301 designates this title as the "Administrative Office of the United States Courts Personnel Act of 1990."

Section 302 defines certain terms.

Section 303 provides the Director of the Administrative Office of the United States Courts the authority to appoint, fix the compensation of, assign, and direct employees of the Office so as to accomplish the Office's mission. This section and the following ones in this title lay out a scheme in which the Director is able to set up his own independent personnel system geared to fulfilling the agency's responsibilities without stripping the employees of the rights and protections normally afforded Federal employees in regard to pay, tenure, and adverse actions. The system is similar to those enacted for other agencies, such as the U.S. General Accounting Office, that due to operational requirements have needed to set up a personnel system not subject to many of the provisions of title 5.

Section 304 is the general authority for the Director to set up a personnel management system outside the provisions of title 5 relating to the appointments and personnel actions in the competitive service. The system is required to provide for the pay, promotion, and assignment of all employees on the basis of merit although not subject to the specific provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, the classification of positions, or the rates of compensation under the General Schedule.

With regard to pay, subsection 304(b) requires, at a minimum, that this personnel management system (1) provide a schedule of pay rates applicable to all employees, (2) limit that schedule to level V of the Executive Schedule except for 5 percent of the authorized positions which may not exceed level IV of the Executive Schedule (a senior executive service for the Office), and (3) provide for the adjustment of such pay when rates of pay are adjusted for employees in the General Schedule or prevailing rates.

Subsection 304(b) also requires that the personnel management system include procedures for employee evaluations, periodic pay adjustments, incentive awards, resolution of grievances, and over-

time and premium pay. The Director must establish procedures for disciplinary actions based on unacceptable performance or misconduct but may exempt from such procedures up to 4 percent of the authorized positions in the Office which are determined to be of confidential or policy-determining character.

This personnel management system must include the merit principles and prohibited personnel practices as set forth in title 5, United States Code, and must prohibit discrimination.

Section 305 completes the scheme for having a complete personnel system for employees of the Office under the authority of the Director. Under this section numerous administrative provisions are set out covering such things as work schedules, discrimination complaints, pay limitations, travel, leave, incentive awards, training programs, employee grievances and appeals. Within 6 months of enactment of this title, the Director is required to establish procedures for the resolution of complaints of discrimination by employees and applicants for employment. Notwithstanding the creation of this new personnel management system, all employees (except those determined to be of confidential or policy-determining character) with appeal rights to the Merit Systems Protection Board or the Equal Employment Opportunity Commission before enactment of this title retain such rights so long as they remain employed by the office.

Section 306 authorizes appropriations to carry out the provisions of this title.

Section 307 specifies that the provisions of this title take effect 60 days after enactment.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

This section primarily sets out the numerous technical and conforming amendments necessitated by this Act.

Section 401 sets out amendments to Title 5.

Section 402 sets out amendments relating to positions above GS–15.

Section 403 sets out amendments relating to the Administrative Office of the United States Courts Personnel.

Section 404 provides that in any law, Executive Order, rule, regulation or the like, the reference to GS–16, GS–17, or GS–18 of the General Schedule means a position classified above GS–15 under section 5108 of title 5.

Section 405 provides that the Office of Personnel Management shall within 6 months of the enactment to this title report to Congress on any other needed technical and conforming amendments due to the passage of this Act.

Section 406 provides that except for the amendments in section 403, all amendments take place on a date to be determined by the Office of Personnel Management but no later than October 1, 1990. The amendments in section 403 take effect 60 days after the enactment of this title.

VI. Cost Estimate of Legislation

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2274.
2. Bill title: Federal Pay Reform Act of 1990.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on July 25, 1990.
4. Bill purpose: The bill would amend Title 5 of the United States Code. It would modify the procedure by which federal salaries are adjusted each year and would provide various allowances, awards, and flexibility measures.
5. Estimated cost to the Federal Government:

[In millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	127	1,489	2,478	2,561	2,673
Estimated outlays	125	1,270	2,324	2,580	2,710

For several provisions (identified below), the cost could not be estimated. In some instances, the necessary data are not available. In others, the application of the provision is left to the discretion of the employing agency or the Office of Personnel Management (OPM), and it is not possible to estimate how this discretion would be used. The cost of these provisions, however, is likely to represent a small part of the total cost of the bill.

The costs of this bill would fall in each budget function, except for Net Interest.

Basis of Estimate.—The cost of the pay raise provisions is estimated in relation to the CBO March baseline, which is the basis for the Senate-passed budget resolution. To be consistent with the baseline, this estimate assumes 22 percent of the first-year cost of the salary adjustments and differentials must be absorbed by the agencies. The full, unabsorbed cost of this bill in 1992 would be $1.6 billion. Authorization levels are estimated as follows:

Title I—Federal Pay Comparability Reform and Locality-Based Pay Adjustments

Salary Adjustments.—Beginning in 1992, the bill would make two changes to the process by which federal salaries are adjusted each year. First, civilian salaries would be adjusted across-the-board each year by the annual increase in the Employment Cost Index (ECI—private industry wages and salaries for white-collar workers, excluding sales) as published by the Bureau of Labor Statistics (BLS). CBO projects the ECI increase for fiscal year 1992 to be 4.3 percent, 4.4 percent for fiscal year 1993, 4.5 percent for fiscal year 1994, and 4.5 for fiscal year 1995. The increases would go into effect automatically on the first day of the first pay period on or after October 1 each year. The bill would give the President the authority to reduce the annual adjustment by one-half of one percentage point for any increase of 5 percent or less, or by one percentage point for any adjustment over 5 percent. The annual adjustment would not be allowed to exceed 8 percent. For purposes of this esti-

mate, it is assumed that the President would use this authority to limit the adjustments. If the full raise is provided, this provision would cost an additional $0.2 billion in 1992 and $3.1 billion over the 1992–1995 period. The CBO March baseline assumes pay raises equal to the anual percentage increase in the GNP deflator (4.0 percent each year through 1995).

This section also would indirectly affect the salaries of wage-board employees. Wage-board salary increases have been limited in previous years to the overall increase in General Schedule salaries. This has resulted in a 10 percent gap between the prevailing rate and federal wage-board salaries, according to the Department of Defense (which employs most of the government's wage-board employees). This bill would authorize an increase in General Schedule salaries, but would not limit the increase wage-board employees would receive; therefore, it is assumed for this estimate that wage-board employees would be paid the prevailing rate begining in 1992. This would increase outlays approximately $0.5 billion in 1992, and $4.4 billion over the 1992–1995 period.

This bill also would provide a second adjustment to federal white-collar employees. For each local wage area, BLS would determine a pay relative, which is the ratio of the earnings of comparable non-federal employees to a national average. In high-wage areas, federal white-collar salaries would be increased by the percentage amount that non-federal salaries are above the national average. For purposes of this estimate, it is assumed that this is a one-time adjustment, because CBO cannot predict future changes in wages for each local wage area. It is also assumed that no salaries would be reduced as a result of this provision.

This bill does not specify the method by which BLS would compute pay relatives for local areas. The method employed in calculating pay relatives would significantly affect the cost of this provision. For purposes of this estimate, CBO computed pay relatives based on 1988 data put together by the Office of Personnel Management in cooperation with the Wyatt Company.

The pay relatives in this estimate reflect analysis of pay for 33 selected jobs and 16 selected metropolitan areas. The selected jobs and areas account for significant numbers of federal workers. Effort was made, within the limitations imposed by the data available, to develop a sample with a fair mix of occupations, areas, and levels of responsibility. All told, the constructed sample covers about 6 percent of the federal white-collar work force in full time jobs. In computing relatives, private-sector pay for each selected job in a metropolitan area was compared to an imputed national average salary for that job. The pay relatives for all selected jobs in an area were combined using weights based on federal employment in those jobs. Therefore, the pay relatives reflect differences from area to area in both the cost of labor and the mix of skills the government requires.

The cost of this provision would vary to the extent that the BLS survey results and estimating methodology differ from those assumed in this estimate. Such differences would likely change the areas which would appear eligible for an adjustment and the level of adjustment indicated.

Higher Minimum Rates.—The bill would extend the current temporary authority to pay employees at special rates for reasons other than a disparity between federal and private sector pay. It also would increase the maximum special rate that may be paid. CBO does not have sufficient information to estimate the budget impact of the special rate provisions. Because most of the special rates are now paid in order to make up for low federal salaries, the enactment of the rest of the bill would diminish the need for special rates in the future. Therefore, the potential cost of the increase in the minimum rate is small.

Critical Position Pay Authority.—The bill would grant OPM, with guidance from the Office of Management and Budget, the authority to set salaries for up to 800 positions that require extremely high levels of expertise. Salaries for these positions may not exceed that of Executive Schedule level I. This estimate assumes that the 800 positions would be paid an average addition of $50,000.

The cost of these provisions, relative to the CBO baseline, is summarized in the following table:

TITLE I

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Annual adjustments to pay schedules:					
Estimated authorization level	0	510	1,173	1,194	1,242
Estimated outlays	0	381	987	1,136	1,199
Locality-based pay adjustments:					
Estimated authorization level	0	830	1,148	1,200	1,255
Estimated outlays	0	728	1,163	1,262	1,320
Pay for critical positions:					
Estimated authorization level	29	40	42	43	45
Estimated outlays	25	40	44	46	48
Total Title I:					
Estimated authorization level	29	1,380	2,362	2,438	2,543
Estimated outlays	25	1,149	2,194	2,444	2,567

Title II—Miscellaneous Federal Pay Reform Provisions

Time Off Duty.—OPM would be allowed to permit agencies to grant time off from duty, without loss to pay or leave, as a performance award. The application of this authority would be left to the discretion of the employing agencies and OPM, and left to the discretion of the employing agencies and OPM, and it is not possible to estimate how this discretion would be used. Therefore, CBO could not estimate the cost of this provision.

Pay for Senior General Schedule Positions.—Employees currently classified at grades 16 through 18 of the General Schedule (GS) would have their pay set by agency heads, subject to OPM regulations, within a range of 120 percent of the minimum rate for GS–15 and Executive Schedule level IV. Average 1991 salaries for these employees would increase from approximately $85,000 under current law to approximately $104,000 This section would not affect the salaries of the Senior Executive Service or the Federal Bureau

of Investigation and the Drug Enforcement Agency Senior Executive Service.

Recruitment and Relocation Bonuses, and Retention Allowances.—OPM would be allowed to authorize agencies to pay recruitment and relocation bonuses and retention allowances of up to 25 percent of an employee's basic pay. The application of this authority would be left to the discretion of the employing agencies and OPM, and it is not possible to estimate how this discretion would be used. Therefore, CBO could not estimate the cost of this provision.

Minimum Rate for new Appointments.—The bill eliminates the GS–11 threshold required for new appointees to be paid above the minimum rate for the grade. The cost of this provision could not be estimated on the basis of available information.

Pay for Administrative Law Judges.—The minimum rate for administrative law judges would be increased to 120 percent of GS–15; the maximum rate would be increased to Executive Schedule level IV from the current level of GS–18.

Senior Executive Service Pay Adjustment.—The bill would authorize the President to adjust Senior Executive Service (SES) salaries whenever the General Schedule or the Executive Schedule is adjusted. The amount of the SES adjustment is left to the discretion of the President. This provision would have no cost relative to the baseline, which assumes SES salaries are adjusted annually.

Advances of Pay.—Agencies would be allowed to advance up to 2 pay periods' worth of pay to new employees. The agencies would then be able to recover the money through offsets against pay, retirement credit, or other amounts due to the employee. The agency may waive the right to recover the advance. It is assumed for purposes of this estimate that the agencies recover the advances; therefore, this provision would have no budgetary impact. This provision would result in a cost to the federal government if agencies do not recover the advances.

Reemployment of Retirees.—The bill would allow up to 1,250 civilian retirees who are reemployed by the federal government to keep both their full retirement benefit and salary. Under current law, a civil service retiree who is reemployed by the federal government has his or her salary reduced by the amount he or she receives as a retirement benefit. According to OPM, approximately 3,000 civil service retirees are reemployed by the federal government. On average, a civil service retiree receives an annual annuity of approximately $20,000. The bill would allow the Director of OPM, at the request of the head of an Executive agency, to waive the salary reduction on a case-by-case basis. The application of this authority would be left to the discretion of the employing agencies and OPM, and it is not possible to estimate how this discretion would be used. Therefore, CBO could not estimate the cost of this provision. If OPM grants all 1,250 waivers, this provision would cost $25 million each year.

Premium Pay Amendments.—The bill would provide a differential for duty that involves physical hardship or hazard on a regular basis; under current law, the differentials may be paid only if the hardship or hazard is intermittent or irregular. The limit on the amount of premium pay that could be paid for emergency duty

during a single pay period also would be removed. The current limit is the maximum rate for GS–15. The total amount paid in a single calendar year would not be allowed to exceed the total amount paid for GS–15 during the calendar year. The cost of this provision could not be estimated on the basis of available information.

Uniform Allowances.—The allowance given to employees to purchase uniforms would be increased from the current level of $125 each year to $400 each year. Approximately 90,000 employees receive the current uniform allowance and would be eligible to receive the additional $275 each year. OPM would be allowed to adjust the amount provided in the future; for purposes of this estimate, CBO assumes OPM would adjust the allowance for inflation.

Physicians Comparability Allowances.—Agencies would be allowed to continue to grant physicians comparability allowances to recruit and retain highly qualified government physicians. This authority is scheduled to expire September 30, 1990. Under this bill, physicians comparability allowance agreements could be entered into through fiscal year 1995 for a period of service extending to fiscal year 1997. Those physicians who qualify are paid, in addition to their basic salary, up to $14,000 a year if they have worked for the government two years or less, and up to $20,000 a year if they have worked for the government over two years. Based on information provided by the Administration, this estimate assumes approximately 1,200 physicians would receive an average allowance of $15,000 this year. For purposes of this estimate, it is assumed that the number of employees awarded the allowance and the average size of the allowance received would increase through 1995.

Compensation of Standing Trustees.—The maximum rate payable to standing trustees would be increased from step 1 of GS–16 to Executive Schedule level V. This provision would have no impact on the federal budget.

Adjustments of Compensation in Pay of Uniformed Services.—Under current law, military salary adjustments are linked to the adjustment provided to the General Schedule. The bill would break this linkage between military and civilian salary adjustments. Military salaries, subsistence allowances, and allowances for quarters would be adjusted by amounts determined by the President. For purposes of this estimate, it is assumed the President would increase military salaries at the baseline rate of 4.0 percent each year. Therefore, this provision would have no cost relative to the baseline.

Compensation for Agency Boards of Contracts Appeal.—The chairman of a board of contract appeals would be paid at SES level 6 instead of the current level of GS–18; a vice-chairman would be paid at SES level 5 instead of the current level of GS–17; other members would be paid at SES level 4 instead of the current level of GS–16.

Travel and Transportation Expenses for Candidates and New Employees.—Agencies would be allowed to pay for prospective employees' travel or transportation expenses to and from preemployment interviews. It would also expand the authority of agencies to pay travel or transportation expenses for any new employees; under current law, these expenses may be paid only for positions for

which OPM has determined a manpower shortage exists. For purposes of this estimate, it is assumed that agencies spend an average of $250 for each vacancy in fulltime permanent positions that results from quits, transfers, retirements, and removals.

Effective Date.—The provisions of Title II would take effective October 1, 1990; and salary adjustments would have to be implemented by OPM by October 1, 1991. For purposes of this estimate, it is assumed OPM implements the salary adjustment October 1, 1990.

The cost of these provisions, relative to the CBO baseline, is summarized in the following table.

TITLE II

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Pay for senior general schedule positions:					
Estimated authorization level	15	21	22	23	24
Estimated outlays	14	22	23	25	26
Pay for administrative law judges:					
Estimated authorization level	2	3	3	3	3
Estimated outlays	10	15	16	16	17
Uniform allowances:					
Estimated authorization level	25	26	27	28	29
Estimated outlays	21	26	27	28	29
Extension of physicians comparability allowance:					
Estimated authorization level	20	22	25	28	31
Estimated outlay	19	22	25	27	30
Compensation for agency boards of contracts appeal					
Estimated authorization level	1	2	2	2	2
Estimated outlays	1	2	2	2	2
Travel and transportation expenses for candidates and new appointees:					
Estimated authorization level	34	36	37	39	40
Estimated outlays	34	36	37	39	40
Total Title II:					
Estimated authorization level	98	110	116	123	130
Estimated outlays	99	121	130	136	144

Title III—Administrative Office of the United States Courts Personnel, and Title IV—Technical and Conforming Amendments

Title III would reform the personnel system of the Administrative Office for the United States Courts. There is no basis to estimate the cost of this title, because its implementation is left to the discretion of the Director of the Administrative Office of the United States Courts. Title IV contains technical amendments that have no cost relative to the baseline.

6. Estimated cost to State and local government.

7. Estimate comparison.

8. Previous CBO Estimate: On August 1, 1990, CBO prepared a cost estimate of H.R. 3979, the Federal Employees Pay Comparability Act of 1990. The provisions that reform the comparability process differ substantially from S. 2274.

H.R. 3979 includes many of the other provisions in S. 2274, with minor differences. The estimates of the cost of these provisions are similar to the estimates for the Senate bill.

9. Estimate prepared by Richard Krop (226–2880), Marta Morgan and Michael Sieverts (226–2860), Barbara Hollingshead and Amy Plapp (226–2840) and Cathy Ellman and Karen Graham (226–2820).

10. Estimate approved by: Charles E. Seagrove (for James L. Blum, Assistant Director for Budget Analysis).

VII. Regulatory Impact of Legislation

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill."

Adoption of this legislation will revise the current pay-setting process for Federal employees and will not have a significant regulatory impact on the public. However, the bill does impose an additional workload on the Bureau of Labor Statistics (BLS) to collect and process pay data in more localities across the country. While the bill seeks to make use of existing surveys, BLS will need to collect data from more entities than it currently does. Participation in the surveys is voluntary. Also, the Office of Personnel Management would be required to make four studies to refine and improve the pay-setting process.

VIII. Additional and Dissenting Views

ADDITIONAL VIEWS OF SENATORS ROTH, COHEN, RUDMAN, HEINZ, AND WILSON

We support reform of the Federal compensation structure. While the legislation reported by the Committee is a step in the right direction, it goes too far in limiting the President's current discretion to establish general schedule adjustments. The arguments for pay reform are compelling, yet this initiative must be balanced with a realistic view of the government's available resources. We believe this balance can be achieved, but it will require a more realistic view of what the government can afford at a time when the deficit continues to grow.

The Federal government is experiencing a "quiet crisis." As the pay gap between the private sector and the Federal government expands, the ability of the Federal government to attract and retain valued employees becomes more difficult. We believe this legislation, if modified, would represent a step forward in addressing this challenge. This is a complex task, but like the reform of the Federal Employee Retirement System several years ago, it is a task this Committee has undertaken as we attempt to remain competitive with the private sector in attracting valued employees.

At a time when communications and technological advances in the workplace provide fertile ground for sweeping improvements in employee productivity, we must do more to attract and retain highly educated and well-trained employees. Demands for competent public service, including social services and law enforcement, require that we address this "quiet crisis" in the near term.

In its 1989 report, "Leadership in America—Rebuilding the Public Service", the National Commission on the Public Service, chaired by Paul Volcker, pointed to some startling statistics:

> Only 13 percent of Federal government senior executives interviewed would recommend that young people start their careers in government, while several recent surveys show that less than half the senior career civil servants would recommend a job in government to their own children;
>
> Of the 610 engineering students who received degrees at M.I.T. and Stanford in 1986, and the 600 who graduated from Rensselaer Polytechnic Institute in 1987, only 29 took jobs in government at any level; and
>
> More than 50 percent of the respondents to a recent survey of Federal personnel officers said recruitment of quality personnel had become more difficult over the past five years.

The General Accounting Office testified that of 64 college students in various discussion groups, only 2 indicated a willingness to accept a starting salary at the Federal entry-level rate. While the pay gap between the private and Federal sector is a significant factor contributing to the failure of the Federal government to recruit and retain the best possible employees, it is not the only factor.

We must do more to promote the ideal of public service and all Americans must recognize the value these public servants are providing. And we must do more to insure that civil servants know what their responsibilities are and know how they are performing. This goal may best be achieved through the implementation of a pay for performance system which requires managers and employees to review together performance appraisals and suggestions for improvements. Managers must be provided with the proper training to insure that reviews are a successful tool for quality performance. Finally, we must provide Federal employees with the assurance that they will be rewarded appropriately for their service. If employees are not recognized for their service, or told how they can perform their jobs better, we will continue down the slippery slope of a Federal government that "can't do." And this is unacceptable at a time when the Federal government has the capability to be more responsive to the needs of the American people.

At the same time that we are considering Federal pay reform, the Federal deficit continues to grow. We can not consider pay reform out of the context of the budget gap. The Office of Management and Budget in its July mid-season review of the Federal budget increased its deficit projections dramatically. The fiscal year 1991 baseline deficit jumped more than 100 percent, from $101 billion to $232 billion. The Congressional Budget Office reported in their update of the Economic and Budget Outlook that the fiscal year 1991 baseline deficit had increased to $232 billion.

Despite efforts to reduce the deficit, it continues to grow. This legislation, if not modified, would substantially increase the Federal government's obligations. According to the Congressional Budget Office, S. 2274 is projected to cost $9.0 billion in additional outlays between 1991 and 1995. If the President decides not to use the limited discretion available to him provided in the bill, this price tag increases an additional $3.1 billion. These additional costs do not take into account the additional expenses associated with recruitment, retention, and relocation expenses as well as other discretionary authority provided in the bill.

During the mark-up of S. 2274, the Committee considered but delayed action on two amendments which we believe are vital to further progress on pay reform. The first amendment retained the President's current authority to establish a pay rate different from that recommended by the President's Pay Agent in the event of national emergency or serious economic condition. The amendment extended this authority to the locality adjustment established in this legislation. The second amendment provided greater movement toward a pay for performance system. Unless this legislation is amended to reflect a more modest approach in these areas, it will be very difficult to get our approval of pay reform legislation.

PRESIDENTIAL DISCRETION

Current law provides the President complete discretion to recommend an alternative pay raise than that recommended by the President's Pay Agent in the event of national emergency or serious economic condition. S. 2274 places a limit on the authority of the President to recommend an alternative raise, and no such discretion is provided with regard to locality increases. The President needs this discretion with regard to both components in case of national emergency or serious economic conditions.

During consideration of S. 2274, Senator Roth read into the record a letter from Office of Personnel Management Director Constance Newman with regard to the President's discretion. That letter stated, in part:

> As we move closer toward reform of the General Schedule Federal pay system, I feel compelled to reiterate to you my concerns with regard to the importance of maintaining flexibility in the pay setting process. While the Administration has proposed in its legislative proposal (S. 2547) a number of additional flexibilities, I am especially concerned at this point with the importance of retaining the President's full authority and discretion in submitting an alternative pay plan in the event he determines that national emergency or serious economic conditions affecting the general welfare requires this to be done. As our representatives have discussed, this ought certainly to be the exception rather than the rule as regards the setting of annual pay levels. However, it remains imperative we maintain the President's prerogative to establish such an alternative plan.

The Congressional Budget Office has estimated that the locality adjustments provided in this legislation cost $4.5 billion dollars over baseline during the next five years. The general schedule adjustment could cost as much as $3.1 billion above baseline depending on whether the President uses the limited discretion available in the bill. These amounts are based on raises above the four percent general schedule increase assumed in the Congressional Budget Office projections. We must be realistic in what the Federal government can afford considering the size of the budget deficit.

We are particularly concerned about the limited discretion in light of the recent furlough notices sent to Federal employees in response to the potential for a sizable Gramm-Rudman sequestration. In the event of furloughs or reductions in force, the President needs this discretion in order to soften the impact of these reductions. If the President were limited in his discretion, more Federal employees may be subject to furlough or job loss.

During the Committee's mark-up of S. 2274, the Committee explored the difference between current law, the amendment offered by Senator Roth, and the proposed bill.

> Senator COHEN. Mr. Chairman, could you explain the difference to me as to the president declaring a national emergency as opposed to a serious economic condition?

Chairman GLENN. There may be some overlap there, I do not know. I would consider a usual consideration of national emergency would be if we have a wartime situation or we were in the real depths of a 1929 great depression or somthing like that. I would consider that. I do not have a specific definition of national emergency.

Senator COHEN. What if we had a Gramm-Rudman-Hollings cut going into effect on October 1 of $100 billion. Would that be a national emergency or a serious economic condition?

Chairman GLENN. I do not know what the semanticists would say about a proper definition of it. I would certainly consider it a national emergency itself. If we get into Gramm-Rudman-Hollings, it is going to be a national emergency.

Senator COHEN. I think it is important to understand what we are doing here. If, in fact, the Chairman is prepared to accept national emergency which would embrace something like Gramm-Rudman-Hollings, then I think we are arguing about a minor difference and I would recommend that Senator Roth accept the charge.

Chairman GLENN. National emergency is a term that is used widely in some of our legislation. Perhaps I spoke too soon. Maybe we should get a definition of national emergency. I was thinking national emergency as all of us normally think of national emergency and not in terms specifically of GRH.

Senator ROTH. Mr. Chairman, I appreciate your willingness to be flexible in this area and I think, as Senator Cohen has said, your proposal it does seem to me shows we are not that far apart and that we ought to be able to work it out.

We believe this exchange identifies a potential solution to our concerns with regard to discretion and we are confident a compromise incorporating the ideas discussed at the mark-up can be accomplished.

PAY FOR PERFORMANCE

The second amendment would have established five pay for performance projects and required that these demonstration projects involve the joint participation of the supervising official and the employee in developing performance standards and using the results of these performance appraisals as a basis for adjusting the base pay and making performance award decisions.

As the Committee heard during the first day of testimony on pay reform, pay for performance is widely used and accepted in private industry. There is no reason we should not adopt some similar practice on a government-wide basis. At the same time, we realize there is no settled system developed, and that is why the demonstration project authority is a good step in the direction of pay for performance, so we can test different ideas.

The development of pay for performance systems will lead to greater communication between employees and supervisors and

this can no doubt lead to a greater sense of the agency's mission and a sense of accomplishment on the part of the employee and the supervisor.

Demonstration project authority will provide for a greater variety of systems from which the Administration and the Congress can learn and thus determine what systems work within the different types of work environments within the Federal government. It is our understanding that these changes are taking place in the public sector as well—several cities including Scottsdale, Arizona and Sunnyvale, California have implemented pay for performance programs.

If these two issues are settled, we believe there is a very strong likelihood that pay reform can be enacted during this session of Congress.

If we fail to address comprehensive pay reform, we run the risk of an increasingly fragmented civil service, with different departments and agencies of government being paid on different scales and competing with each other for employees. This is how the system operated prior to 1949, when the current General Schedule and classification system was enacted. That same year, a Task Force of the original Hoover Commission reported that under the various pay and classification systems at the time, "inequality and inconsistency result from the absence of uniform pay policies for all employees and the organization for the control of pay administration in the Federal Service is incomplete and cumbersome."

We fear a return to these problems. Increasingly, the Committee is approached by various groups and agencies which want a separate pay scale and authority to develop their own system. While this legislation does provide increased flexibility for individual agencies to use special recruitment tools and retention bonuses, these flexibilities are being offered in the context of a government-wide approach instead of on an ad hoc, agency by agency, basis.

Having said this, we feel compelled to reiterate that one can not ignore the budget implications of our actions. Perhaps, we should look to the National Commission on Public Service for direction, which recommended:

> In determining the appropriate (pay) increase, the Commission concludes that the current goal of national comparability between public and private pay is simplistic and unworkable, and is neither fair to the civil service nor to the public it serves. The Commission recommends a new civil service pay-setting process that recognizes the objective fact that pay differs by occupation and by localities characterized by widely different living costs and labor market pressures.

We plan to work with the entire Committee in an effort to iron out these differences in the hope that pay reform will be enacted this session.

DISSENTING VIEWS OF SENATOR CARL LEVIN

Although I voted against S. 2274 in committee, I am not opposed to the need for pay reform. It is apparent that the current system contains inequities that need to be addressed, and I am pleased that the Committee has turned its attention to this issue.

The recruitment and retention of high quality personnel is a critically important element in the efficient and effective operation of our federal programs. These dedicated individuals—our federal employees—do the frontline, day-to-day work of the federal government, making sure the wheels of government keep turning. They are also the face of this government to many individuals. If they are not effective and responsive, the people are not well-served. The establishment of effective and fair compensation for these individual is, therefore, an important issue and merits our attention and consideration.

In principal, I understand the concept of locality pay which is the cornerstone of this S. 2274. It makes sense that, given our current fiscal restraints, that the economic characteristics of a given area be taken into consideration when deciding compensation. My vote in the Governmental Affairs Committee markup against the pay reform proposal was based on my concern over the implementation of locality pay.

In theory, the proposal holds that government employees will be paid according to the economic conditions of the area in which they work. That sounds reasonable. In reality, this means drawing lines separating one government worker from another and paying one at a higher rate just because they live on the "right" side of a particular line. I represent the entire State of Michigan. The question is, how do you justify drawing lines which cause a person on one side of the line to be paid at one rate and the person on the other side of the line to paid at another rate and have it be fair? How do you guard against big winners and unjustly treated losers?

S. 2274 is a step in the right direction, but I believe it needs more consideration with regard to its implementation before it should be enacted into law. Hopefully that consideration will be possible before or during the debate on the bill on the Senate floor.

IX. Changes in Existing Law

Rule XXVI of the Standing Rules of the Senate requires that changes in existing law made by the bill, as reported, be detailed in the Committee Report accompanying the bill. Changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * * * *

PART III—EMPLOYEES

* * * * * * *

Subpart A—General Provisions

CHAPTER 23—MERIT SYSTEM PRINCIPLES

§ 2301. Merit system principles

(a) * * *

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by [employers in the private sector,] *non-Federal employers* and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—

(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

* * * * * * *

Subpart C—Employee Performance

CHAPTER 45—INCENTIVE AWARDS

Subchapter 1—Awards for Superior Accomplishments

§ 4502. General provisions

(a) * * *

* * * * * * *

(e) The Office of Personnel Management may by regulation permit agencies to grant employees time off duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Government operations. Such time off duty may not exceed 5 working days in any calendar year for any employee.

* * * * * * *

[5108. Classification of positions at GS–16, 17, and 18]
5108. Classification of positions above GS–15.

Subpart D—Pay and Allowances

CHAPTER 51—CLASSIFICATION

§ 5108. Classification of positions [at GS–16, 17, and 18] *above GS–15*

(a) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of 10,777) which may at any one time be placed in—

(i) [GS–16, 17, and 18;] *a position above GS–15;*

(ii) the Senior Executive Service, in accordance with section 3138 of this title; and

(iii) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

A position may be placed [in GS–16, 17, or 18,] *above GS–15,* only by action of the Director of the Office of Personnel Management. The authority of the Director under this subsection shall be carried out by the President in the case of positions proposed to be placed in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

(b)(1) The number of positions of senior specialists in the Legislative Reference Service, Library of Congress, placed [in GS–16, 17, and 18] *above GS–15* under the proviso in section 166(b)(1) of title 2 are in addition to the number of positions authorized by subsection (a) of this section.

(2) In addition to the number of positions authorized by subsection (a) of this section and positions referred to in paragraph (1) of this subsection, the Librarian of Congress, subject to the procedures prescribed by this section, may place a total of 44 positions in the Library of Congress [in GS–16, 17, and 18.] *above GS–15.*

(c) In addition to the number of positions authorized by subsection (a) of this section—

[(1) the Director of the Administrative Office of the United States Courts, subject to the standards and procedures prescribed by this chapter, may place a total of 17 positions in GS–16, 17,and 18; and [1]]

[(2)] *(1)* the Chief Judge of the United States Tax Court, without regard to this chapter (except section 5114), may place a total of 5 positions [in GS–16, 17, and 18;] *above GS–15;* and

[(3)] *(2)* the heads of executive departments or agencies in which boards of contract appeals are established pursuant to the Contract Disputes Act of 1978, and subject to the standards and procedures prescribed by this chapter, but without regard to subsection (d) of this section, may place additional positions, not to exceed seventy in number, [in GS–16, GS–17, and GS–18] *above GS–15* for the independent quasi-judicial determination of contract disputes, with the allocation of such positions among such executive departments and agencies determined by the Administrator for Federal Procurement Policy on the basis of relative case load.

[SUBCHAPTER I—PAY COMPARABILITY SYSTEM

[Sec.
[5301. Policy.
[[5302. Repealed.]
[5303. Higher minimum rates; Presidential authority.
[5304. Presidential policies and regulations.
[5305. Annual pay reports and adjustments.
[5306. Advisory Committee on Federal Pay.
[5307. Pay fixed by administrative action.
[5308. Pay limitation.]

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

Sec.
5301. Policy.

5302. Locality-based adjustments.
5303. Higher minimum rates; Presidential authority.
5304. Presidential policies and regulations.
5305. Annual general adjustment and locality-based adjustments.
5306. Federal Pay Council.
5307. Pay fixed by administrative action.
5308. Pay limitation.
5309. Critical position pay authority.
5310. Recruitment and relocation bonuses.
5311. Retention allowances.
5312. Pay for Senior General Schedule positions.

CHAPTER 53—PAY RATES AND SYSTEMS

Subchapter I—Pay Comparability System

§ 5301. Policy

(a) It is the policy of Congress that Federal pay fixing for employees under statutory pay systems be based on the principles that—

(1) there be equal pay for substantially equal work *within each pay area;*

(2) pay distinctions be maintained *within each pay area* in keeping with work and performance distinctions;

(3) Federal pay rates be comparable with private enterprise [pay rates for the same levels of work] *and State and local government pay rates for the same levels of work within each pay area*; and

(4) pay levels for the statutory pay systems be interrelated.

(b) The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title.

(c) For the purpose of this subchapter, "statutory pay system" means a pay system under—

(1) subchapter III of this chapter, relating to the General Schedule;

(2) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; [or]

(3) chapter 73 of title 38, relating to the Department of Medicine and Surgery, Veterans' Administration; *and*

(4) chapter 54 of this title, relating to the performance management and recognition system.

§ 5302. Locality-based adjustments

(a) Locality-based pay adjustments shall be determined by the pay agent, referred to under section 5305, based on pay relative data determined by the Bureau of Labor Statistics under section 5305 for positions under statutory pay systems including professional, administrative, technical, clerical, and other positions (including law enforcement officers). The adjustments shall be paid in wage areas surveyed by the Bureau of Labor Statistics and shall apply to each employee in a statutory pay system as defined under section 5301(c) whose permanent duty station is within the boundaries of the applicable wage area. An employee whose permanent duty station is not located within the boundaries of wage area surveyed by the Bureau

of Labor Statistics shall receive that locality-based pay adjustment, if any, payable to employees in the nearest wage locality.

(b) For purposes of pay retention under section 5363 of this title, that portion of a pay rate based on locality-based adjustments shall not be a rate of basic pay, if an employee transfers to a locality with a differing locality-based pay rate. Locality-based pay rates shall be part of basic pay for all other purposes, including retirement, life insurance, lump-sum leave payments, and severance pay.

[§ 5303. Higher minimum rates; Presidential authority

[(a) When the President finds that the pay rates in private enterprise for one or more occupations in one or more areas or locations are so substantially above the pay rates of statutory pay schedules as to handicap significantly the Government's recruitment or retention of well-qualified individuals in positions paid under—

[(1) section 5332 of this title;

[(2) Repealed. Pub.L. 91-375, § 6(c)(10), Aug. 12, 1970, 84 Stat. 776;

[(3) the pay scales for physicians, dentists, and nurses in the Department of Medicine and Surgery, Veterans' Administration, under chapter 73 of title 38; or

[(4) section 403 of the Foreign Service Act of 1980; he may establish for the areas or locations higher minimum rates of basic pay for one or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all step rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum pay rate prescribed by statute for the grade or level. The President may authorize the exercise of the authority conferred on him by this section by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other agency as he may designate.

[(b) Within the limitation of subsection (a) of this section, rates of basic pay established under that subsection may be revised from time to time by the President or by such agency as he may designate. The actions and revisions have the force and effect of statute.

[(c) An increase in rate of basic pay established under this section is not an equivalent increase in pay within the meaning of section 5335(a) of this title.

[(d) The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system specified in subsection (a) of this section, shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate.]

§ 5303. Higher minimum rates; Presidential authority

(a) Whenever the President finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1

or more areas or locations are significantly handicapped, due to any of the circumstances described in subsection (b), he may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of basic pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all step rates of the pay range for each such grade or level (including under an alternative pay schedule). However, a minimum rate so established may not exceed 160 percent of the minimum pay rate prescribed by statute (or established under an alternative pay schedule, if applicable) for the grade or level. The President may authorize the exercise of the authority conferred on him by this section by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointments in the competitive service, by such other agency as he may designate.

(b) Authority under subsection (a) may be exercised if the Government's efforts to recruit or retain well-qualified individuals are significantly handicapped by—

(1) the remoteness of the area or location involved;

(2) the undesirability of the working conditions or the nature of the work involved (including exposure to toxic substances or other occupational hazards); or

(3) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of subsection (a)) considers appropriate.

(c) Authority under subsection (a) may be exercised with respect to positions paid under—

(1) a statutory pay system; or

(2) any other pay system established by or under Federal statute for civilian positions within the executive branch.

(d) Within the limitations applicable under the preceding provisions of this section, rates of pay established under this section may be revised from time to time by the President or by such agency as he may designate. The actions and revisions have the force and effect of statute.

(e) An increase in a rate of pay established under this section is not an equivalent increase in pay within the meaning of section 5335 and may not be considered part of basic pay of an employee.

(f) The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system referred to in subsection (c), shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate.

(g) The Office of Personnel Management may make appropriate locality-based adjustments under section 5302 for any position for which a rate of pay is established under this section, except any such adjustment may not exceed the minimum rate limitation under subsection (a).

§ 5304. Presidential policies and regulations

The functions, duties, and regulations of the agencies and the Office of Personnel Management with respect to the subchapter, subchapter III of this chapter, chapter 51 of this title, the Foreign Service Act of 1980, and the provisions of chapter 73 of title 38 relating to employees in the Department of Medicine and Surgery, Veterans' Administration, are subject to such policies and regulations as the President may prescribe. Among other things, the policies and regulations of the President may provide for—

[(1) preparing and reporting to him the annual comparison of Federal pay rates with private enterprise rates;]

(1) reviewing and reporting to the President biennially the comparison of Federal pay rates with pay rates in private enterprise and State and local governments;

(2) obtaining and reporting to him the views of employee organizations on the [annual comparison,] *annual general adjustment and locality-based adjustments* and on other pay matters;

(3) reviewing and reporting to him on the adequacy of the Federal statutory pay structures for the Federal programs to which they apply;

(4) reviewing the relationship of Federal statutory pay rates and private enterprise *and State and local government* pay rates in specific occupation and local areas; and

(5) providing step-increase in recognition of high quality performance and providing for properly relating supervisory pay rates paid under one system to those of subordinates paid under another system.

[§ 5305. Annual pay reports and adjustments

[(a) In order to carry out the policy stated in section 5301 of this title, the President shall—

[(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submitted under the provisions of subsection (b) of this section, a report that—

[(A) compares the rates of pay of the statutory pay systems with the rates of pay for the same levels of work in private enterprise as determined on the basis of appropriate annual surveys that shall be conducted by the Bureau of Labor Statistics;

[(B) makes recommendations for appropriate adjustments in rates of pay; and

[(C) includes the views and recommendations submitted under the provision of subsection (b) of this section;

[(2) after considering the report of his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title, adjust the rates of pay of each statutory pay system in accordance with the principles under section 5301(a) of this title, effective as of the beginning of the first applicable pay period commencing on or after October 1 of the applicable year; and

[(3) transmit to Congress a report of the pay adjustment, together with a copy of the report submitted to him by his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

[(b) In carrying out its functions under subsection (a)(1) of this section, the President's agent shall—

[(1) establish a Federal Employees Pay Council of 5 members who shall not be deemed to be employees of the Government of the United States by reason of appointment to the Council and shall not receive pay by reason of service as members of the Council, who shall be representatives of employee organizations which represent substantial numbers of employees under the statutory pay systems, and who shall be selected with due consideration to such factors at the relative numbers of employees represented by the various organizations, but no more than 3 members of the Council at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations;

[(2) provide for meetings with the Federal Employees Pay Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any of the members of the Council regarding—

[(A) the coverage of the annual survey conducted by the Bureau of Labor Statistics under subsection (a)(1) of this section (including, but not limited to, the occupations, establishment sizes, industries, and geographical areas to be surveyed);

[(B) the process of comparing the rates of pay of the statutory pay systems with rates of pay for the same levels of work in private enterprise; and

[(C) the adjustments in the rates of pay of the statutory pay systems that should be made to achieve comparability between those rates and the rates of pay for the same levels of work in private enterprise;

[(3) give thorough consideration to the views and recommendations of employee organizations not represented on the Federal Employee Pay Council regarding the subjects in paragraph (2)(A)-(C) of this subsection; and

[(4) include in its report to the President the views and recommendations submitted as provided in this subsection by the Federal Employee Pay Council, by any member of that Council, and by employee organizations not represented on that Council.

[(c)(1) If, because of national emergency or economic conditions affecting the general welfare, the President should, in any year, consider it inappropriate to make the pay adjustment required by subsection (a) of this section, he shall prepare and transmit to Congress before September 1 of that year such alternative plan with

respect to pay adjustment as he considers appropriate, together with the reasons therefor, in lieu of the pay adjustments required by subsection (a) of this section. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

[(2) An alternative plan transmitted by the President under paragraph (1) of this subsection becomes effective on the first day of the first applicable pay period commencing on or after October 1 of the applicable year and continues in effect unless, before the end of the first period of 30 calendar days of continuous session of Congress after the date on which the alternative plan is transmitted, either House adopts a resolution disapproving the alternative plan so recommended and submitted, in which case the pay adjustments for the statory pay system shall be made effective as provided by subsection (m) of this seciton. The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

[(d) Subsections (e)–(k) of this section are enacted by Congress—

[(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

[(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

[(e) If the committee, to which has been referred a resolution disapproving the alternative plan of the President, has not reported the resolution at the end of 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same plan which has been referred to the committee.

[(f) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon is limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

[(g) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same alternative plan.

[(h) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an alter-

native plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

[(i) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

[(j) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to an alternative plan, and motions to proceed to the consideration of other business, are decided without debate.

[(k) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an alternative plan are decided without debate.]

§ 5305. Annual general adjustment and locality-based adjustments

(a)(1) In order to carry out the policy stated in section 5301 of this title, the President shall—

(A) direct the Bureau of Labor Statistics to determine in each fiscal year the increase in wages or salaries as reflected by the employment cost index (wages and salaries, white-collar occupations excluding sales) based on information for the preceding 12-month period ending on September 30 of each year; and

(B) direct the Bureau of Labor Statistics to determine pay relative data for each locality surveyed by examining a broad representation of positions in professional, administrative, technical clerical, and other positions.

(2) A pay relative shall be the average earnings in a locality expressed as a percentage of the average earnings in all wage areas combined. The wage areas surveyed shall be those areas determined by such agent as the President considers appropriate, in consultation with the Bureau of Labor Statistics. Each wage area shall be surveyed at least once every 2 years.

(b) No later than November 1 of each year, the Bureau of Labor Statistics shall submit a report of the determinations made under subsection (a) to the pay agent referred to under subsection (a).

(c)(1) No later than December 31 of each year, the pay agent referred to under subsection (a) shall report to the President and the Congress the annual general adjustment which shall be that percentage adjustment to statutory pay rates which equals the increase in the employment cost index. The pay agent shall also report locality adjustments necessary to reflect the pay relative data determined by the Bureau of Labor Statistics. Such adjustments shall be included in the budget next transmitted under section 1105(a) of title 31, United States Code by the President to the Congress after the date of the submission of the agent's report.

(2) The employment cost index adjustment described under paragraph (1) shall be rounded to the nearest tenth of a percent. The lo-

cality-based adjustment described under paragraph (1) shall be rounded to the nearest tenth of a percent.

(d) Except as provided in subsection (e) of this section, the President shall make adjustments in the rates of pay of each statutory pay system equal to the sum of the general annual adjustment and any locally-based adjustment figures as reported under subsection (c) of this section and in accordance with the principles of section 5301(a) of this title, effective as of the beginning of the first applicable pay period beginning on or after October 1 of the applicable year.

(e)(1) If the President determines that the annual general adjustment should be limited in the event of national emergency or serious economic conditions affecting the general welfare, the President shall prepare and report that determination to the Congress in the budget transmittal described under subsection (c) of this section. Based on such a determination, the President may reduce the annual general adjustment—

(A) by 0.5 percent for any increase of 5 percent or less; or

(B) by 1 percent for any increase more than 5 percent.

(2) If the President makes a determination to limit the annual general adjustment under paragraph (1), such annual general adjustment may not exceed 8 percent in any year.

[(l)] *(f)* The rates of pay which become effective under this section are the rates of pay applicable to each position concerned, and each class of positions concerned, under a statutory pay system.

[(m) If either House adopts a resolution disapproving an alternative plan submitted under subsection (c) of this section, the President shall take the action required by paragraphs (2) and (3) of subsection (a) of this section and adjust the rates of pay of the statutory pay systems effective as of the beginning of the first applicable pay period commencing on or after the date of which the resolution is adopted, or on or after October 1, whichever is later.]

[(n)] *(g)* The rates of pay that take effect under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of the increases; and

(2) any prior recommendations or adjustments which took effect under this section or prior provisions of law.

[(o)] *(h)* The rates of pay that take effect under this seciton shall be printed in the Federal Register and the Code of Federal Regulations.

[(p)] *(i)* An increase in rates of pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335 of this title.

[(q)] *(j)* Any rate of pay under this section shall be initially adjusted, effective on the effective date of the rate of pay, under conversion rules prescribed by the President or by such agenices as the President may designate.

[(r)] *(k)* This section does not impair any authority pursuant to which rates of pay may be fixed by administrative action.

[§ 5306. Advisory Committee on Federal Pay

[(a) There is established as an independent establishment an Advisory Committee on Federal Pay, to be composed of 3 members,

not otherwise employed in the Government of the United States, appointed by the President. The Director of the Federal Mediation and Conciliation Service shall, and other interested parties may, recommend to the President for his consideration persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy to serve as members. The President shall designate one of the members as Chairman. Each appointment shall be for a term of 6 years, except that one of the original members shall be appointed for a term of 2 years, and another for a term of 4 years. A member appointed to fill a vacancy occurring before the end of the term of his predecessor shall serve for the remainder of that term. When the term of a member ends, he may continue to serve until his successor is appointed.]

§ 5306. Federal Pay Council

(a)(1) the President shall establish a Federal Pay Council of 9 members, of whom—

(A) 3 shall be chosen from among persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy; and

(B) 6 shall be representatives of employee organizations which represent substantial numbers of employees holding General Schedule positions, and who shall be selected with due consideration to such factors as the relative numbers of employees represented by the various organizations, except that not more than 3 members of the Council at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

(2) Members of the Council who are not otherwise employees of the United States shall neither receive pay nor be considered to be employees by reasons of service as such members.

(3) The pay agent, referred to under section 5305, shall—

(A) provide for meetings with the Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any, of the members of the Council regarding—

(i) the establishment or modification of pay localities;

(ii) the coverage of the annual survey conducted by the Bureau of Labor Statistics under section 5305(a) (including, but not limited to, the occupations, establishment sizes, and industries, to be surveyed, and how pay localities are to be surveyed); and

(iii) the process of comparing the rates of pay payable under the General Schedule with rates of pay for the same levels of work performed by non-Federal workers;

(B) give thorough consideration to the views and recommendations of employee organizations not represented on the Council regarding the subjects in subparagraph (A); and

(C) include in its report to the President the views and recommendations submitted as provided in this subsection by the Council, by any member of the Council, and by employee organizations not represented on the Council.

(b) To assist the President in carrying out the policy under section 5301 of this title, the Committee shall—

(1) review the annual report of the President's agent;

(2) consider such further views and recommendations with respect to the analysis and pay proposals contained in the annual report of the President's agent as may be presented to it in writing by employee organizations, the President's agent, other officials of the Government of the United States, and such experts as it may consult; and

(3) report its findings and recommendations to the President.

(c) The [Committee] *Council* may secure from any Executive agency or military department information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions. Each such Executive agency or military department shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the [Committee] *Council* on the request of the [Committee.] *Council.*

(d) On request of the [Committee] *Council* the head of any Executive agency or military department may detail, on a reimbursable basis, any of its personnel to assist the [Committee] *Council* is carrying out its functions.

(e) The Administrator of General Services shall provide administrative support services for the [Committee] *Council* on a reimbursable basis.

(f) The [Committee] *Council* may obtain services of experts or consultants in accordance with section 3109 of this title but at rates for individuals not to exceed that of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of this chapter.

[(g) Each member of the Committee is entitled to pay at the daily equivalent of the annual rate of basic pay of level IV of the Executive Schedule for each day he is engaged on work of the Committee, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703(b) of this title.]

[(h) The Committee may appoint and fix the pay of such personnel as may be necessary to carry out its functions.]

(g) The Council may appoint and fix the pay of such personnel as may be necessary to carry out its function, except such personnel may not exceed 20 persons. One such person may be an Executive Director whose rate of pay may not exceed the annual rate of basic pay of level V of the Executive Schedule.

* * * * * * *

[§ 5308. Pay limitation

[Pay may not be paid, by reason of any provision of this subchapter, at a rate in excess of the rate of basic pay for level V of the Executive Schedule.]

§ 5308. Pay limitation

Except for locality-based adjustments alone or in combination with rates set under section 5303, pay may not be paid, by reason of any provision of this subchapter, at a rate in excess of the rate of basic pay for level V of the Executive Schedule. Pay adjusted in accordance with this subchapter, including any locality-based adjust-

ment, may not exceed the rate of basic pay for level II of the Executive Schedule.

§ 5309. Critical-position pay authority

(a) The Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, may, from time to time, allocate any reallocate among the departments and agencies of the executive branch, critical-position pay authority for not to exceed a Government-wide total of 800 positions.

(b) The head of an agency that receives an allocation of critical-position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Personnel Management under subsection (a).

(c) For purposes of this section, 'critical-position pay authority' means the authority for the head of an agency, notwithstanding any other law, including any provision of this chapter, to fix the rate of basic pay for any position which such agency head determines to be a critical position at an annual rate that does not exceed the rate in effect for level I of the Executive Schedule, except that the aggregate annual amount paid (including any allowance, bonus, award, or other direct compensation) to an employee under this section during any fiscal year may not exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

(d) Critical-position pay authority for a position may be reexercised when a position becomes vacant and is refilled only upon a redetermination by the agency head that the position remains a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Personnel Management required for such exercise under subsection (a) is reconfirmed by the Director of the Office of Personnel Management at the time of such reexercise.

(e) In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider—

(1) the extent to which the position requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

(2) the extent to which additional compensation is necessary to recruit or retain exceptionally qualified individuals; and

(3) the extent to which the position is critical to the agency's successful accomplishment of an important mission.

(f)(1) The Office of Personnel Management shall establish a Critical Position Advisory Panel to make recommendations on—

(A) the criteria that should be used to determine which positions should be critical positions; and

(B) the qualifications that should be expected of individuals assigned to critical positions.

(2) The panel shall be composed of members with exceptional expertise and experience in management, administration, and personnel matters.

(h) On October 1 of each year, the Office of Personnel Management shall submit a report to the Congress listing all critical-pay positions in the Government.

§ 5310. Recruitment and relocation bonuses

(a) The Office may authorize the head of an agency to pay a bonus to an employee who is newly appointed to a position under the General Schedule, or to an employee under the General Schedule or under any other pay authority in the executive, legislative, or judicial branch, who is required to relocate to accept a position under the General Schedule, if the Office determines that the agency would be likely, in the absence of such a bonus, to encounter difficulty in filling the position.

(b)(1) The amount of a bonus under this section shall be determined by regulations of the Office, but may not exceed 25 percent of the annual rate of basic pay of the position to which the employee is being appointed or relocated.

(2) Payment of a bonus under this section shall be contingent upon the employee entering into an agreement with the agency to complete a period of employment with the agency, with the required period determined pursuant to regulations of the Office. If the employee voluntarily fails to complete such period of service or is separated from the service before completion of such period of service for cause on charges of misconduct or delinquency, the employee shall repay the bonus on a pro rate basis.

(3) A bonus under this section shall be paid as a lump sum, and may not be considered to be part of the basic pay of an employee.

(4) Under regulations of the Office, a recruitment bonus may be paid to a newly-hired employee before the employee enters on duty.

(c)(1) The Office shall prescribe such regulations as it considers necessary for the administration of this section.

(2) If a labor organizatioin representing employees of an agency under the General Schedule has been accorded exclusive recognition under section 7111 or has been granted national consultation rights under section 7113, the agency shall consult with that labor organization on any criteria the agency will use at the level of recognition for determining eligibility for and the amount of relocation bonuses under this section.

§ 5311. Retention allowances

(a) The Office may authorize the head of an agency to pay an allowance to an employee under the General Schedule, if—

(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services make it essential to retain the employee; and

(2) the agency determines that the employee would be likely to leave in the absence of a retention allowance.

(b)(1) A retention allowance, which shall be stated as a percentage of the rate of basic pay of the employee, may not exceed 25 percent of such rate of basic pay.

(2) A retention allowance may not be considered to be part of the basic pay of an employee, and the reduction or elimination of a retention allowance may not be appealed.

(3) A retention allowance shall be paid in the same manner and at the same time as the employee's basic pay is paid.

(c)(1) The Office shall prescribe such regulations as it considers necessary for the administration of this section.

(2) If a labor organization representing employees of an agency under the General Schedule has been accorded exclusive recognition under section 7111 or has been granted national consultation rights under section 7113, the agency shall consult with that labor organization on any criteria the agency shall use at the level of recognition in determining eligibility for and the amount of allowances under this section.

§ 5312. Pay for senior General Schedule positions

(a)(1) This section applies to employees in—

(A) positions that are classified above GS–15 under section 5108, but that are not—

(i) Senior Executive Service positions under section 3132; or

(ii) positions in the Federal Bureau of Investigation and the Drug Enforcement Administration Senior Executive Service under section 3151; and

(B) scientific and professional position established under section 3104.

(2) An employee paid under this section shall not be covered by sections 5302, 5303, and 5304, but shall be subject to the other provisions of this subchapter.

(b) Subject to regulations and criteria prescribed by the Office of Personnel Management, the head of an agency may set the rate of basic pay of a position to which this section applies at not less than 120 percent of the minimum rate for GS–15 nor more than the rate for level IV of the Executive Schedule.

Subchapter III—General Schedule Pay Rates

§ 5333. Minimum rate for new appointments; higher rates for supervisors of prevailing rate employees

(a) New appointments shall be made at the minimum rate of the appropriate grade. However, under regulations prescribed by the Office of Personnel Management which provide for such considerations as the existing pay or unusually high or unique qualifications of the candidate, or a special need of the Government for his services, the head of an agency may appoint, with the approval of the Office in each specific case, an individual to a position **[**in GS–11 or above**]** *in the General Schedule or other statutory pay system* at such a rate above the minimum rate of the appropriate grade as the Office may authorize for this purpose. The approval of the Office in each specific case is not required with respect to an appointment made by the Librarian of Congress.

Subchapter VII—Miscellaneous Provisions

[§ 5372. Administrative law judges

[Administrative law judges appointed under section 3105 of this title are entitled to pay prescribed by the Office of Personnel Management independently of agency recommendations or ratings and in accordance with subchapter III of this chapter and chapter 51 of this title.**]**

§ 5372. Administrative law judges

(a)(1) The President shall, in his sole discretion, establish and from time to time adjust 3 or more rates of basic pay for administrative law judges, of which the minimum rate may not be less than 120 percent of the minimum rate for GS–15, as in effect from time to time, and the maximum rate may not be more than the rate for level IV of the Executive Schedule, as in effect from time to time.

(2) The rates of basic pay that are established and adjusted under this subsection shall be printed in the Federal Register and shall supersede any prior rates of basic pay for administrative law judges.

(b) The Office of Personnel Management shall determine, in its sole discretion, at which rate of basic pay each administrative law judge shall be paid. In making such determination, the Office shall consider the complexity and variety of the cases assigned to the administrative law judge, and any administrative responsibilities of the administrative law judge, and may consider the administrative law judge's length of service as an administrative law judge. Notwithstanding section 1104(a)(2), this authority may not be delegated to the head of any agency.

(c) The Office of Personnel Management shall prescribe such regulations as it considers necessary for the administration of this section.

§ 5373. Limitation on pay fixed by administrative action

Except as provided by the Government Employees Salary Reform Act of 1964 (78 Stat. 400) and notwithstanding the provisions of other statutes, the head of an Executive agency or military department who is authorized to fix by administrative action the annual rate of basic pay for a position or employee may not fix the rate at more than the [maximum rate for GS–18] *rate for level IV of the Executive Schedule.* This section does not impair the authorities provided by—

(1) section 1202 of the Panama Canal Act of 1979;

(2) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, section 2A(i)[1] of the Home Owners' Loan Act, and sections 5.11 and 5.58 of the Farm Credit Act of 1971;

(3) section 831b of title 16; or

(4) sections 403a–403C, 403e–403h, and 403j of title 50.

Subchapter VIII—Pay for the Senior Executive Service

§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service

(a) * * *

* * * * * * *

[(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount determined by the President to be

appropriate. The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305(a)(3) or (c)(1) of this title.]

(c) Subject to subsection (b), effective at the beginning of the first applicable pay period commencing on or after the effective date of an adjustment in the rates of basic pay of the General Schedule or of the rates of pay of the Executive Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount determined by the President in his sole discretion to be appropriate.

CHAPTER 55—PAY ADMINISTRATION

Subchapter III—Advancement, Allotment, and Assignment of Pay

§ 5522. Advance payments; rates; amounts recoverable

(a) * * *

* * * * * * *

(c) Under regulations prescribed by the Office of Personnel Management, an agency may provide for the advance payment of basic pay, covering not more than 2 pay periods, to any individual who is newly appointed to a position in the agency and who has to relocate to accept such appointment.";

[(c)] *(d)* An advance of funds under [subsection (a)] *subsection (a) or (c)* of this section is recoverable by the Government of the United States or the government of the District of Columbia, as the case may be, from the employee or his estate by—

(1) setoff against accrued pay, amount of retirement credit, or other amount due to the employee from the Government of the United States or the government of the District of Columbia; and

(2) such other method as is provided by law.

The head of the agency concerned may waive in whole or in part a right of recovery of an advance of funds under [subsection (a)] *subsection (a) or (c)* of this section, if it is shown that the recovery would be against equity and good conscience or against the public interest.

Subchapter V—Premium Pay

§ 5542. Overtime rates; computation

(a) * * *

* * * * * * *

(c) This section shall not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.

§ 5544. Wage-board overtime and Sunday rates; computation

(a) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week. However, an employee subject to this subsection who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty exclusive of eating and sleeping time, in excess of 40 a week. The overtime hourly rate of pay is computed as follows:

(1) If the basic rate of pay of the employee is fixed on a basis other than an annual or monthly basis, multiply the basic hourly rate of pay by not less than one and one-half.

(2) If the basic rate of pay of the employee is fixed on an annual basis, divide the basic annual rate of pay by 2,080, and multiply the quotient by one and one-half.

(3) If the basic rate or pay of the employee is fixed on a monthly basic, multiply the basic monthly rate of pay by 12 to derive a basic annual rate of pay, divide the basic annual rate of pay by 2,080, and multiply by quotient by one and one-half.

An employee subject to this subsection whose regular work schedule includes an 8-hour period of service a part of which is on Sunday is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour of work performed during that 8-hour period of service. Time spent in a travel status away from the official duty station of an employee subject to this subsection is not hours of work unless the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively. *This section, other than the sixth sentence, shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid non-work status shall be deemed to be hours of work.*

§ 5545. Night, standby, irregular, and hazardous duty differential

(a) * * *

* * * * * * *

(d) The Office shall establish a schedule or schedules of pay differentials for [irregular or intermittent] duty involving unusual physical hardship or hazard. Under such regulations as the Office may prescribe, and for such minimum periods as it determines appropriate, an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. However, the pay differential—

[(1) does not apply to an employee in a position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof;]

(1) may apply to an employee in a position which by its nature inherently involves physical hardship or hazard only if the Office determines such application to be appropriate; and

(2) may not exceed an amount equal to 25 percent of the rate of basic pay applicable to the employee.

* * * * * * *

§ 5547. Limitation on premium pay

(a) * * *

[(b)(1) The provisions of subsection (a) shall not apply to the pay of any forest firefighter for any pay period in which such firefighter is assigned to work on, or in support of, forest wildlife emergencies.

[(2) Notwithstanding the provisions of paragraph (1), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS–15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

[(3) For purposes of this subsection, the term—

[(A) "forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to work on, or in support of, forest wildfire emergencies; and

[(B) "in support of" means duties performed during a temporary assignment to work on wildland fire suppression for which the salary costs of employees shall be paid from funds provided to the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service or the Bureau of Indian Affairs for fire fighting.]

(b)(1) Subject to regulations prescribed by the Office of Personnel Management, the provisions of the first sentence of subsection (a) shall not apply to an employee who is paid premium pay by reason of work on, or in support of, an emergency involving a direct threat to life or property, including a forest wildlife emergency.

(2) Notwithstanding paragraph (1), no employee (other than an employee subject to the second sentence of subsection (a)) may be paid premium pay under sections 5542, 5545 (a), (b), and (c), and 5546 (a) and (b) to the extent that the aggregate of basic and premium pay for such employee for the aggregate of all pay periods in any calendar year would otherwise exceed the maximum annual rate of basic pay for GS–15 in effect at the end of such calendar year.

* * * * * * *

[5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay]

5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay; interview expenses.

CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

Subchapter I—Travel and Subsistence Expenses; Mileage Allowances

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay*; interview expenses*

An employee serving intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis, or serving without pay or at $1 a year, may be allowed travel or transportation expenses, under this subchapter, while away from his home or regular place of business and at the place of employment or service. *An individual being considered for employment by an agency may be paid travel or transportation expenses under this subchapter to travel to and from pre-employment interviews determined necessary by the agency.*

* * * * * * *

[5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions]
5723. Travel and transportation expenses of new appointees and student trainees.

Subchapter II—Travel and Transportation Expenses; New Appointees, Student Trainees, and Transferred Employees

§ 5723. Travel and transportation expenses of new appointees and student trainees[; manpower shortage positions]

(a) Under such regulations as the President may prescribe and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations—

[(1) travel expenses (A) of a new appointee, or a student trainee when assigned on completion of college work, to a position in the United States for which the Office of Personnel Management determines there is a manpower shortage, (B) of a new appointee to the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or (C) of any person appointed by the President to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS–16; and]

(1) travel expenses of a new appointee or a student trainee when assigned on completion of college work; and

(2) transportation expenses of his immediate family and his household goods and personal effects to the extent authorized by section 5724 of this title;

from his place of residence at the time of selection or assignment to his duty station. If the travel and transportation expenses of a student trainee were paid when he was appointed, they may not be paid when he is assigned after completion of college work. Travel expenses payable under this subsection may include the per diem and mileage allowances authorized for employees by subchapter I of this chapter. Advances of funds may be made for the expenses authorized by this subsection to the extent authorized by section

5724(f) of this title. In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee.

* * * * * * *

Subchapter IV—Miscellaneous Provisions

[§ 5752. Travel expenses of Senior Executive Service candidates

[Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requests by the employing agency.]

* * * * * * *

CHAPTER 59—ALLOWANCES

Subchapter I—Uniforms

§ 5901. Uniform allowances

(a) There is authorized to be appropriated annually to each agency of the Government of the United States, including a Government owned corporation, and of the government of the District of Columbia, on a showing of necessity or desirability, an amount not to exceed [$125] *$400* multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties and who are not being furnished with the uniform. The head of the agency concerned, out of funds made available by the appropriation, shall—

(1) furnish to each of these employees a uniform at a cost not to exceed [$125] *$400* a year; or

(2) pay to each of these employees an allowance for a uniform not to exceed [$125] *$400* a year.

The allowance may be paid only at the times and in the amounts authorized by the regulations prescribed under section 5903 of this title. When the agency pays direct to the uniform vendor, the head of the agency may deduct a service charge of not more than 4 percent.

[§ 5902. Increase in maximum uniform allowance

[Notwithstanding section 5901 of this title, each of the respective maximum uniform allowances in effect on April 1, 1966, for the respective categories of employees to whom uniform allowances are paid under section 5901 of this title are increased, subject to the maximum allowance authorized by section 5901 of this title, as follows:

[(1) If the maximum uniform allowance is $100 or more, it is increased by 25 percent.

[(2) If the maximum uniform allowance is $75 or more but less than $100, it is increased by 30 percent.

[(3) If the maximum uniform allowance is $50 or more but less than $75, it is increassed by 35 percent.

[(4) If the maximum uniform allowance is less than $50, it is increased by 40 percent.

[The maximum uniform allowances, as in effect on April 1, 1966, and as increased by this section, may not be reduced.]

§ 5902. Increase in maximum uniform allowances

Notwithstanding section 5901, the Office of Personnel Management may from time to time, by regulation, adjust the maximum amount for the cost of uniforms and the maximum allowance for uniforms under section 5901, and such adjustment shall also adjust the amount prescribed under the first sentence of section 5901.

[§ 5903. Regulations

[The President shall prescribe regulations necessary for the uniform administration of this subchapter.]

§ 5903. Regulations

The Office of Personnel Management may prescribe such regulations as it considers necessary for the administration of this subchapter.

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Subchapter IV—Miscellaneous Allowances

§ 5948. Physicians comparability allowances

(a) * * *

* * * * * * *

(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service. No agreement shall be entered into under this section later than [September 30, 1990.] *September 30, 1995,* nor shall any agreement cover a period of service extending beyond [September 30, 1992] *September 30, 1997.*

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Subpart G—Insurance and Annuities

CHAPTER 83—RETIREMENT

Subchapter III—Civil Service Retirement

§ 8344. Annuities and pay on reemployment

(a) * * *

* * * * * * *

(i) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency, waive the applica-

tion of the provisions of this section on a case-by-case basis to fill vacancies in scientific, technical, professional, or administrative positions for which there is exceptional difficulty in recruiting qualified applicants. An employee to whom such waiver applies shall not be deemed an employee for the purposes of chapter 83 or 84 while such waiver is in effect. The Office shall prescribe regulations establishing criteria for the exercise of this authority.

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CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

Subchapter VI—General and Administrative Provisions

§ 8468. Annuities and pay on reemployment

(a) * * *

* * * * * * *

(f) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency, waive the application of the provisions of this section on a case-by-case basis to fill vacancies in scientific, technical, professional, or administrative positions for which there is exceptional difficulty in recruiting qualified applicants. An employee to whom such waiver applies shall not be deemed an employee for the purposes of chapter 83 or 84 while such waiver is in effect. The Office shall prescribe regulations establishing criteria for the exercise of this authority.

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TITLE 28, UNITED STATES CODE

CHAPTER 39—UNITED STATES TRUSTEES

§ 586. Duties; supervision by Attorney General

(a) * * *

* * * * * * *

(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 19 of title 11, shall fix—

[(A) a maximum annual compension for such individual, not to exceed the annual rate of basic pay in effect for step 1 of grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and]

(A) a maximum annual compensation for such individual consisting of—

(i) an amount not to exceed the highest annual rate of basic pay in effect for level V of the Executive Schedule; and

(ii) the cash value of employment benefits comparable to the employment benefits provided by the United States to

individuals who are employed by the United States at the same rate of basic pay to perform similar services during the same period of time; and".

(B) a percentage fee not to exceed—

(i) in the case of a debtor who is not a family farmer, ten percent; or

(ii) in the case of a debtor who is a family farmer, the sum of—

(I) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exeed $450,000; and

(II) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds $450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

Such individual shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 12 or 13 of tile 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall deposit in the United States Trustee System Fund—

(A) any amount by which the actual compensation of such individual exceeds 5 per centum upon all payments received under plans in cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee; and

(B) any amount by which the percentage for all such cases exceeds—

(i) such individual's actual compensation for such cases, as adjusted under subparagaph (A) of paragraph (1); plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases. Subject to the approval of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilized to pay actual, necessary expenses without regard to the percentage limitation contained in subparagraph (d)(1)(B) of his section.

TITLE 37, UNITED STATES CODE

CHAPTER 19—ADMINISTRATION

§ 1009. Adjustments of compensation

[(a) Whenever the General Schedule of compensation for Federal classified employees as contained in section 5332 of title 5 is adjusted upward, the President shall immediately make an upward adjustment in the—

[(1) monthly basic pay authorized members of the uniformed services by section 203(a) of this title;

[(2) basic allowance for subsistence authorized enlisted members and officers by section 402 of this title; and

[(3) basic allowance for quarters authorized members of the uniformed services by section 403(a) of thtis title.]

(a) Effective on October 1, 1991, and on the first day of October of each year therafter, the President shall make an adjustment, by a percentage detemined by the President, in the current rates of—

(1) the monthly basic pay authorized members of the uniformed services pursuant to section 203(a) of this title;

(2) the basic allowance for subsistence authorized members of the uniformed services pususant to section 402 of this title; and

(3) the basic allowance for quarters authorized members of the uniformed services pursuant to section 403(a) of this title.

(b) An adjustment under this section shall have the force and effect of law and shall—

[(1) carry the same effective date as that applying to the compensation adjustments provided General Schedule employees;

[(2) be based on the rates of the various elements of compensation as defined in, or made under, section 402 or 403 of this title, or this section; and

[(3) subject to subsections (c) and (d) of this section, provide all eligible members with an increase in each element of compensation, set forth in subsection (a) of this section, which is of the same percentage as the overall average percentage increase in the General Schedule rates of basic pay for civilian employees.]

(1) be based on the rates of the various elements of compensation as defined in, or made under, section 402 or 403 of this title, or this section; and

(2) subject to subsections (c) and (d) of this section, provide all eligible members with the same overall percentage increase in each element of compensation set forth in subsection (a) of this section.

(c)(1) Whenever the President determines such action to be in the best interest of the Government, he is authorized to allocate the overall average percentage of any increase described in [subsection (b)(3)] *subsection (b)(2)* of this section among the elements of compensation specified in subsection (a) of this section on a percentage basis other than an equal percentage basis; however, the amount allocated to the element of monthly basic pay may not be less than 75 percent of the amount that would have been allocated to the element of basic pay under [subsection (b)(3)] *subsection (b)(2)* of this section.

(2) Under regulations prescribed by the President, whenever the President exercises his authority under paragraph (1) of this subsection to allocate the elements of compensation specified in subsection (a) of this section on a percentage basis other than an equal percentage basis, he may pay to each member without dependents who, under section 403(b) or (c) of this title, is not entitled to receive a basic allowance for quarters, an amount equal to the difference between (1) the amount of such increase under paragraph (1) of this subsection in the amount of the basic allowance for quarters which, but for section 403(b) or (c) of this title, such member would

be entitled to receive, and (2) the amount by which such basic allowance for quarters would have been increased under [subsection (b)(3)] *subsection (b)(2)* of this section if the President had not exercised such authority.

(d)(1) Subject to paragraph (2) of this subsection, whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the element of basic pay that would otherwise be effective after any allocation made under subsection (c) of this section among such pay grade and years-of-service categories as he considers appropriate.

(2) In making any allocation of an overall percentage increase in basic pay under paragraph (1) of this subsection—

(A) the amount of the increase in basic pay for any given pay grade and years-of-service category after any allocation made under this subsection or under subsection (c) of this section (or under both such subsections) may not be less than 75 percent of the amount of the increase in the element of basic pay that would otherwise have been effective with respect to such pay grade and years-of-service category under [subsection (b)(3)] *subsection (b)(2)* of this section; and

(B) the overall percentage increase in the elements of compensation specified in subsection (a) of this section in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase [in the General Schedule rates of basic pay for civilian employees.] *described in subsection (b)(2) of this section.*

(e) Whenever the President plans to exercise his authority under subsection (c) or (d) of this section with respect to any anticipated increase in the compensation of members of the uniformed services, he shall advise the Congress, at the earliest practicable time prior to the effective date of such increase, regarding the proposed allocation of such increase.

(f) The allocations of increases made under this section shall be assessed in conjunction with the quadrennial review of military compensation required by section 1008(b) of this title, and a full report shall be made to the Congress summarizing the objectives and results of those allocations.

(g) Basic pay authorized for members of the uniformed services may not be paid at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule under title 5.

TITLE 41, UNITED STATES CODE

CHAPTER 9—CONTRACT DISPUTES

§ 607. Agency boards of contracts appeals

(a) * * *

(b) APPOINTMENT OF MEMBERS; CHAIRMAN; COMPENSATION.—(1) Except as provided in paragraph (2), the members of agency boards shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of Title

5, with an additional requirement that such members shall have had not fewer than five years' experience in public contract law. Full-time members of agency boards serving as such on the effective date of this chapter shall be considered qualified. The chairman and vice chairman of each board shall be designated by the agency head from members so appointed. The chairman of each agency board shall receive compensation at a rate equal to that paid a [GS-18 under the General Schedule contained in section 5332 of Title 5,] *rate 6 in the Senior Executive Service established under section 5382 of title 5, United States Code,* the vice chairman shall receive compensation at a rate equal to that paid a [GS-17 under such General Schedule,] *rate 5 in the Senior Executive Service established under section 5382 of such title,* other members shall receive compensation at a rate equal to that paid a [GS-16 under such General Schedule.] *rate 4 in the Senior Executive Service established under section 5382 of such title.* [Such positions shall be in addition to the number of positions which may be placed in GS-16, GS-17, and GS-18 of such General Schedule under existing law.]

(2) The Board of Directors of the Tennessee Valley Authority shall establish criteria for the appointment of members to its agency board of contract appeals established in subsection (a)(2) of this section, and shall designate a chairman of such board. The chairman of such board shall receive compensation at a rate equal to the daily rate paid a [GS-18 under the General Schedule contained in section 5332 of Title 5] *rate 6 in the Senior Executive Service established under section 5382 of title 5, United States Code,* for each day he is engaged in the actual performance of his duties as a member of such board. All other members of such board shall receive compensation at a rate equal to the daily rate paid a [GS-16 under such General Schedule] *rate 4 in the Senior Executive Service established under section 5382 of title 5, United States Code,* for each day they are engaged in the actual performance of their duties as members of such board.

TITLE 2, UNITED STATES CODE

CHAPTER 2—ORGANIZATION OF CONGRESS

§ 29b. Commission on Information and Facilities in House of Representatives

(a) * * *

(b) ADVISORY COUNCIL; ESTABLISHMENT; COMPOSITION, COMPENSATION.—To assist the Commission in carrying out its functions, the Speaker shall establish an Advisory Council composed of six members as follows:

(1) Two members who are representatives of public affairs institutions or groups,

(2) Two members who have demonstrated ability in space utilization, and

(3) Two members of the general public.

The members of such Advisory Council shall receive compensation at the daily rate provided by law for persons [in grade GS-18,] *above GS-15,* for each day actually engaged in the performance of the Commission's functions; and shall be entitled to receive actual and necessary travel expenses, including per diem in lieu of subsistence.

CHAPTER 5—LIBRARY OF CONGRESS

§ 178h. Staff of Board; experts and consultants

(a) * * *

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provisions of Title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for [GS-16] *above GS-15* of the General Schedule.

CHAPTER 22—JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT ACT

§ 1107. Executive Director of Center

(a) * * *

(b) COMPENSATION.—The Executive Director of the Center shall be compensated at the rate specified for employees [in grade GS-18] *above GS-15* of the General Schedule under section 5332 of Title 5.

§ 1108. Administrative provisions

(a) IN GENERAL.—In order to carry out the provisions of this chapter, the Center may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of Title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate specified at the time of such service [for grade GS-18] *above GS-15* under section 5332 of such Title;

* * * * * * *

TITLE 3, UNITED STATES CODE

CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

§ 105. Assistance and services for the President

(a)(1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the White House Office without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

(A) 25 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

(B) 25 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

(C) 50 employees at rates not to exceed the maximum rate of basic pay then currently paid for [GS–18] *above GS–15* of the General Schedule of section 5332 of title 5; and in addition

(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for [GS–16] *above GS–15* of the General Schedule of section 5332 of title 5.

(b)(1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the Executive Residence at the White House without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

(A) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for [GS–18] *above GS–15* of the General Schedule of section 5332 of title 5; and in addition

(B) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for [GS–16] *above GS–15* of the General Schedule of section 5332 of title 5.

§ 106. Assistance and services for the Vice President

(a) In order to enable the Vice President to provide assistance to the President in connection with the performance of functions specially assigned to the Vice President by the President in the discharge of executive duties and responsibilities, the Vice President is authorized—

(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

(A) 5 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

(B) 3 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

(C) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for [GS–18] *above GS–15* of the General Schedule of section 5332 of title 5; and in addition

(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5; and

(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5.

Notwithstanding such section 3109(b), temporary services of any expert or consultant described in such section 3109(b) may be procured under paragraph (2) of this subsection for a period in excess of one year if the Vice President determines such procurement is necessary.

§ 107. Domestic Policy Staff and Office of Administration; personnel

(a) In order to enable the Domestic Policy Staff to perform its functions, the President (or his designee) is authorized—

(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

(A) 6 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

(B) 18 employees at rates not to exceed the maximum rate of basic pay then currently paid for [GS–18] *above GS–15* of the General Schedule of section 5332 of title 5; and in addition

(C) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for [GS–16] *above GS–15* of the General Schedule of section 5332 of title 5; and

(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5.

(b)(1) In order to enable the Office of Administration to perform its functions, the President (or his designee) is authorized—

(A) without regard to such other provisions of law as the President may specify which regulate the employment and compensation of persons in the Government service, to appoint and fix the pay of not more than—

(i) 5 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

(ii) 5 employees at rates not to exceed the maximum rate of basic pay then currently paid for [GS–18] *above GS–15* of the General Schedule of section 5332 of title 5; and

(B) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the maximum rate of basic pay then currently paid for [GS–18] *above GS–15* of the General Schedule of section 5332 of title 5.

(2) In addition to any authority granted under paragraph (1) of this subsection, the President (or his designee) is authorized to employ individuals in the Office of Administration in accordance with section 3101 of title 5 and provisions relating thereto. Any individual so employed under the authority granted under subsection 3101 shall be subject to the limitation specified in section 114 of this title.

* * * * * * *

§ 113. Personnel report

(a) * * *

(b) Each report required under subsection (a) shall contain—

(1) the number of employees who are paid at a rate of basic pay equal to or greater than the rate of basic pay then currently paid for level V of the Executive Schedule of section 5316 of title 5 and who are employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, or the Office of Administration, and the aggregate amount paid to such employees;

(2) the number of employees employed in such offices who are paid at a rate of basic pay which is equal to or greater than the minimum rate of basic pay then currently paid for [GS–16] *above GS–15* of the General Schedule of section 5332 of title 5 but which is less than the rate then currently paid for level V of the Executive Schedule of section 5316 of title V[1] and the aggregate amount paid to such employees;

(3) the number of employees employed in such offices who are paid at a rate of basic pay which is less than the minimum rate then currently paid for [GS–16] *above GS–15* of the General Schedule of section 5332 of title V[1], and the aggregate amount paid to such employees;

(4) the number of individuals detailed under section 112 of this title for more than 30 days to each such office, the number of days in excess of 30 each individual was detailed, and the

aggregate amount of reimbursement made as provided by the provisions of section 112 of this title; and

(5) the number of individuals whose services as experts or consultants are procured under this chapter for service in any such office, the total number of days employed, and the aggregate amount paid to procure such services.

The information required under this subsection to be in any report shall be shown both in the agregate and by office involved.

§ 114. General pay limitation

Notwithstanding any provision of law, other than the provisions of this chapter, no employee of the White House Office, the Executive Residence at the White House, the Domestic Policy Staff, or the Office of Administration, nor any employee under the Vice President appointed under section 106 of this title, may be paid at a rate of basic pay in excess of the minimum rate of basic pay then currently paid for [GS-16] *above GS-15* of the General Schedule of section 5332 of title 5.

TITLE 5, UNITED STATES CODE

PART III—EMPLOYEES

Subpart A—General Provisions

CHAPTER 23—MERIT SYSTEM PRINCIPLES

§ 2301. Merit system principles

(a) This section shall apply to—

(1) An Executive agency; *and*

[(2) the Administrative Office of the United States Courts; and]

[(3)] (2) the Government Printing Office.

§ 2302. Prohibited personnel practices

(a)(1) For the purpose of this title, "prohibited personnel practice" means any action described in subsection (b) of this section.

(2) For the purpose of this section—

(A) "personnel action" means—

(i) an appointment;

(ii) a promotion;

(iii) an action under chapter 75 of this title or other disciplinary or corrective action;

(iv) a detail, transfer, or reassignment;

(v) a reinstatement;

(vi) a restoration;

(vii) a reemployment;

(viii) a performance evaluation under chapter 43 of this title;

(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment,

promotion, performance evaluation, or other action described in this subparagraph; and

(x) any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level;

with respect to an employee in, or applicant for, a covered position in an agency;

(B) "covered position" means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.

(C) "agency means an Executive agency [, the Administrative Office of the United States Courts,] and the Government Printing Office, but does not include—

(i) a Government corporation;

(ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counter-intelligence activities; or

(iii) the General Accounting Office.

Subpart B—Employment and Retention

CHAPTER 31—AUTHORITY FOR EMPLOYMENT

Subchapter II—The Senior Executive Service

§ 3132. Definitions and exclusions

(a) For the purpose of this subchapter—

(1) "agency" means an Executive agency, except a Government corporation and the General Accounting Office, but does not include—

(A) any agency or unit thereof excluded from coverage by the President under subsection (c) of this section; or

(B) the Federal Bureau of Investigation, the Drug Enforcement Administration, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, an Executive agency, or unit thereof, whose principal function is the conduct of foreign intelligence or counterintelligence activities;

(C) the Federal Election Commission; or

(D) the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance

Board, the Resolution Trust Corporation, and the National Credit Union Administration;

(2) "Senior Executive Service position" means any position in an agency which is [in GS-16, 17, or 18] *above GS-15* of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President, by and with the advice and consent of the Senate, and in which an employee—

(A) directs the work of an organizational unit;

(B) is held accountable for the success of one or more specific programs or projects;

(C) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals;

(D) supervises the work of employees other than personal assistants; or

(E) otherwise exercises important policy-making, policy-determining, or other executive functions;

but does not include—

(i) any position in the Foreign Service of the United States; or

(ii) or an administrative law judge position under section 3105 of this title;

[(iii) Repealed. Pub.L. 100-325, § 2(c)(2)(C), May 30, 1988, 102 Stat. 581]

(3) "senior executive" means a member of the Senior Executive Service;

(4) "career appointee" means an individual in a Senior Executive Service position whose appointment to the position or previous appointment to another Senior Executive Service position was based on approval by the Office of Personnel Management of the executive qualifications of such individual;

(5) "limited term appointee" means an individual appointed under a nonrenewable appointment for a term of 3 years or less to a Senior Executive Service position the duties of which will expire at the end of such term;

(6) "limited emergency appointee" means an individual appointed under a nonrenewable appointment, not to exceed 18 months, to a Senior Executive Service position established to meet a bona fide, unanticipated, urgent need;

(7) "noncareer appointee" means an individual in a Senior Executive Service position who is not a career appointee, a limited term appointee, or a limited emergency appointee;

(8) "career reserved position' means a position which is required to be filled by a career appointee and which is designated under subsection (b) of this section; and

(9) "general position" means any position, other than a career reserved position, which may be filled by either a career appointee, noncareer appointee, limited emergency appointee, or limited term appointee.

CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

Subchapter I—Examination, Certification, and Appointment

§ 3304a. Competitive service; career appointment after 3 years' temporary service

(a) An individual serving in a position in the competitive service under an indefinite appointment or a temporary appointment pending establishment of a register (other than an individual serving under an overseas limited appointment or [in GS–16, GS–17, or GS–18] *above GS–15* acquires competitive status and is entitled to have his appointment converted to a career appointment, without condition, when—

(1) he completes, without break in service of more than 30 days, a total of at least 3 years of service in such a position;

(2) he passes a suitable noncompetitive examination;

(3) the appointing authority (A) recommends to the Office of Personnel Management that the appointment of the individual be converted to a career appointment and (B) certifies to the Office that the work performance of the individual for the past 12 months has been satisfactory; and

(4) he meets Office qualification requirements for the position and is otherwise eligible for career apointment.

* * * * * * *

§ 3324. Appointments [at GS–16, 17, and 18] *above GS–15*

(a) An appointment to a position [in GS–16, 17, or 18] *above GS–15* may be only on approval of the qualifications of the proposed appointee by the Office of Personnel Management. This section does not apply to a position—

(1) provided for in section 5108(c)(2) of this title;

(2) to which appointment is made by the President;

(3) to which appointment is made by the Librarian of Congress; or

(4) the incumbent of which is paid from—

(A) appropriations for the Executive Office of the President under the heading "The White House Office", "Special Projects", "Council of Economic Advisers", or "National Security Council"; or

(B) funds appropriated to the President under the heading "Emergency Fund for the President" by the Treasury, Post Office, and Executive Office Appropriation Act, 1966, or a later statute making appropriations for the same purpose.

* * * * * * *

CHAPTER 34—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

§ 3405. Nonapplicability

(a) * * *

(b) This chapter shall not require part-time career employment in positions the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate fixed [for GS–16] *above GS–15* of the General Schedule.

Subpart C—Employee Performance

CHAPTER 43—PERFORMANCE APPRAISAL

Subchapter I—General Provisions

§ 4301. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency; *and*

[(B) the Administrative Office of the United States Courts; and]

[(C)] *(B)* the Government Printing Office;

but does not include—

(i) a Government corporation;

(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

(iii) the General Accounting Office;

* * * * * * *

CHAPTER 45—INCENTIVE AWARDS

Subchapter I—Awards for Superior Accomplishments

§ 4501. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

[(B) the Administrative Office of the United States Courts;]

[(C)] *(B)* the Library of Congress;

[(D)] *(C)* the Office of the Architect of the Capitol;

[(E)] *(D)* the Botanic Garden;

[(F)] *(E)* the Government Printing Office;

[(G)] *(F)* the government of the District of Columbia; and

(H) the United States Sentencing Commission;

but does not include—

(i) the Tennessee Valley Authority; or

(ii) the Central Bank for Cooperatives;

(2) "employee" means—

(A) an employee as defined by section 2105 of this title, but does not include an employee covered by the perform-

ance management and recognition system established under chapter 54;

(B) an individual employee by the government of the District of Columbia; and

(3) "Government" means the Government of the United States and the government of the District of Columbia.

* * * * * * *

CHAPTER 47—PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

§ 4701. Definitions

(a) For the purpose of this chapter—

(1) "agency" means an Executive agency[, the Administrative Office of the United States Courts,] and the Government Printing Office, but does not include—

(A) a government corporation.

(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

(C) the General Accounting Office;

(2) "employee" means an individual employed in or under an agency;

(3) "eligible" means an individual who has qualified for appointment in an agency and whose name has been entered on the appropriate register or list of eligibles;

(4) "demonstration project" means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management; and

(5) "research program" means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

Subchapter D—Pay and Allowances

CHAPTER 51—CLASSIFICATION

§ 5102. Definitions; application

(a) For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency;

[(B) the Administrative Office of the United States Courts;]

[(C)] *(B)* the Library of Congress;

[(D)] *(C)* the Botanic Garden;

[(E)] *(D)* the Government Printing Office;
[(F)] *(E)* the Office of the Architect of the Capitol; and
[(G)] *(F)* the government of the District of Columbia;

but does not include—

(i) a Government controlled corporation;
(ii) the Tennessee Valley Authority;
(iii) the Virgin Islands Corporation;
(iv) the Atomic Energy Commission;
(v) the Central Intelligence Agency;
(vi) the Panama Canal Commission;
(vii) the National Security Agency, Department of Defense;
(viii) the General Accounting Office; or
(x) the Defense Intelligence Agency, Department of Defense;

(2) "employee" means an individual employed in or under an agency;

(3) "position" means the work, consisting of the duties and responsibilities, assignable to an employee;

(4) "class" or "class of positions" includes all positions which are sufficiently similar, as to—

(A) kind or subject-matter of work;
(B) level of difficulty and responsibility; and
(C) the qualification requirements of the work;

to warrant similar treatment in personnel and pay administration; and

(5) "grade" includes all classes of positions which, although different with respect to kind or subject-matter of work, are sufficiently equivalent as to—

(A) level of difficulty and responsibility; and
(B) level of qualification requirements of the work;

to warrant their inclusion within one range of rates of basic pay in the General Schedule.

* * * * * * *

(c) This chapter does not apply to-

(1) Repealed. Pub. L. 91-375, § 6(c)(9), Aug. 12, 1970, 84 Stat. 776;

(2) members of the Foreign Service whose pay is fixed under the Foreign Service Act of 1980; and positions in or under the Department of State which are—

(A) connected with the representation of the United States to international organizations; or
(B) specifically exempted by statute from this chapter or other classification or pay statute;

(3) physicians, dentists, nurses, and other employees in the Department of Medicine and Surgery, Veterans' Administration, whose pay is fixed under chapter 73 of title 38;

(4) teachers, school officials, and employees of the Board of Education of the District of Columbia whose pay is fixed under chapter 15 of title 31, District of Columbia Code; the chief judges and the associate judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and nonjudicial employees of the District of Columbia

court system whose pay is fixed under title 11 of the District of Columbia Code;

(5) members of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, and the Executive Protective Service; and members of the police force of the National Zoological Park whose pay is fixed under section 5375 of this title;

(6) lighthouse keepers and civilian employees on lightships and vessels of the Coast Guard whose pay is fixed under section 432 (f) and (g) of title 14;

(7) employees in recognized trades or crafts, or other skilled mechanical crafts, or in unskilled, semiskilled, or skilled manual-labor occupations, and other employees including foremen and supervisors in positions having trade, craft, or laboring experience and knowledge as the paramount requirement, and employees in the Bureau of Engraving and Printing whose duties are to perform or to direct manual or machine operations requiring special skill or experience, or to perform or direct the counting, examining, sorting, or other verification of the product of manual or machine operations;

(8) officers and members of crews of vessels;

(9) employees of the Government Printing Office whose pay is fixed under section 305 of title 44;

(10) civilian professors, instructors, and lecturers at a professional military education school whose pay is fixed under section 1595, 4021, 7478, or 9021 of title 10; civilian professors, lecturers, and instructors at the Naval Academy whose pay is fixed under section 6952 of title 10; senior professors, professors, associate and assistant professors, and instructors at the Naval Postgraduate School whose pay is fixed under section 7044 of title 10; and the Academic Dean of the Postgraduate School of the Naval Academy whose pay is fixed under section 7043 of title 10;

(11) aliens or noncitizens of the United States who occupy positions outside the United States;

(12) any Executive agency to the extent of any election under section 1212(b)(2) (relating to the Panama Canal Employment System) of the Panama Canal Act of 1979;

(13) employees who serve without pay or at nominal rates of pay;

(14) employees whose pay is not wholly from appropriated funds of the United States (other than employees of the Federal Retirement Thrift Investment Management System appointed under section 8474(c)(2) of this title), except that with respect to the Veterans' Canteen Service, Veterans' Administration, this paragraph applies only to employees necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots whose employment is authorized by section 4202 of title 38;

(15) employees whose pay is fixed under a cooperative agreement between the United States and—

(A) a State or territory or possession of the United States, or political subdivision thereof; or

(B) an individual or organization outside the service of the Government of the United States;

(16) student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, student occupational therapists, and other student employees, assigned or attached to a hospital, clinic, or laboratory primarily for training purposes, whose pay is fixed under subchapter V of chapter 53 of this title or section 4114 of title 38;

(17) inmates, patients, or beneficiaries receiving care or treatment or living in Government agencies or institutions;

(18) experts or consultants, when employed temporarily or intermittently in accordance with section 3109 of this title;

(19) emergency or seasonal employees whose employment is of uncertain or purely temporary duration, or who are employed for brief periods at intervals;

(20) employees employed on a fee, contract, or piece work basis;

(21) employees who may lawfully perform their duties concurrently with their private profession, business, or other employment, and whose duties require only a portion of their time, when it is impracticable to ascertain or anticipate the proportion of time devoted to the service of the Government of the United States;

(22) "teachers" and "teaching positions" as defined by section 901 of title 20;

(23) examiners-in-chief and designated examiners-in-chief in the Patent and Trademark Office, Department of Commerce;

(24) temporary positions in the Bureau of the Census established under section 23 of title 13, and enumerator positions in the Bureau of the Census;

(25) positions for which rates of basic pay are individually fixed, or expressly authorized to be fixed, by other statute, at or in excess of the maximum rate [for GS–18;] *for level IV of the Executive Schedule;*

(26) civilian members of the faculty of the Coast Guard Academy whose pay is fixed under section 186 of title 14;

(27) members of the police of the Library of Congress whose pay is fixed under section 167 of title 2; or

(28) civilian members of the faculty of the Air Force Institute of Technology whose pay is fixed under section 9314 of title 10.

§ 5104. Basis for grading positions

The General Schedule, the symbol for which is "GS", is the basic pay schedule for positions to which this chapter applies. The General Schedule is divided into 18 grades of difficulty and responsibility of work, as follows:

(1) * * *

* * * * * * *

[(16) Grade GS–16 includes those classes of positions the duties of which are—

[(A) to perform, under general administrative direction, with unusual latitude for the exercise of independent judgment, work of outstanding difficulty and responsibility

along special technical, supervisory, or administrative lines which has demonstrated leadership and exceptional attainments;

[(B) to serve as the head of a major organization involving work of comparable level;

[(C) to plan and direct or to plan and execute professional, scientific, technical, administrative, fiscal, or other specialized programs of unusual difficulty, responsibility, and national significance, requiring extended training and experience which has demonstrated leadership and exceptional attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

[(D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

[(17) Grade GS–17 includes those classes of positions the duties of which are—

[(A) to serve as the head of a bureau where the position, considering the kind and extent of the authorities and responsibilities vested in it, and the scope, complexity, and degree of difficulty of the activities carried on, is of a high order among the whole group of positions of heads of bureaus;

[(B) to plan and direct or to plan and executive professional, scientific, technical, administrative, fiscal, or other specialized programs of exceptional difficulty, responsibility, and national significance, requiring extended training and experience which has demonstrated exceptional leadership and attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

[(C) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

[(18) Grade GS–18 includes those classes of positions the duties of which are—

[(A) to serve as the head of a bureau where the position, considering the kind and extent of the authorities and responsibilities vested in it, and the scope, complexity, and degree of difficulty of the activities carried on, is exceptional and outstanding among the whole group of positions of heads of bureaus;

[(B) to plan and direct or to plan and execute frontier or unprecedented professional, scientific, technical, administrative, fiscal, or other specialized programs of outstanding difficulty, responsibility, and national significance, requiring extended training and experience which has demonstrated outstanding leadership research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

[(C) to perform consulting or other profesional, scientrific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.]

* * * * * * *

§ 5109. Positions classified by statute

(a) * * *

(b) The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1954 is classified [at GS–18,] *above GS–15* and is in addition to the number of positions authorized by section 5108(a) of this title.

* * * * * * *

CHAPTER 53—PAY RATES AND SYSTEMS

Subchapter IV—Prevailing Rate Systems

§ 5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia

(a) The pay of employees, described under section 5102(c)(7) of this title, in [the Administrative Office of the United States Courts,] the Library of Congress, the Botanic Garden, the Government Printing Office, the General Accountig Office, the Office of the Architect of the Capitol, the Bureau of Engraving and Printing, and the government of the District of Columbia, shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and in accordance with such provisions of this subchapter, including the provisions of section 5344, relating to retroactive pay, and subchapter VI of this chapter, relating to grade and pay retention, as the pay-fixing authority of each such agency may determine. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided for by section 206(a)(1) of title 29. If the pay-fixing authority concerned determines that the provisions of subchapter VI of this chapter should apply to any employee under his jurisdiction, then the employee concerned shall be deemed to have satisfied the requirements of section 5361(1) of this title if the tenure of his appointment is substantially equivalent to the tenure of any appointment referred to in such paragraph.

* * * * * * *

Subchapter VII—Miscellaneous Provisions

§ 5371. Scientific and professional positions

Subject to the approval of the Office of Personnel Management, the head of the agency concerned shall fix the annual rate of basic pay for scientific and professional positions established under section 3104 of this title at not less than the minumum rate for GS–16 nor more than the maximum rate for [GS–18.] *level IV of the Executive Schedule.*

Subchapter VIII—Pay for the Senior Executive Service

§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service

(a) * * *

(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable [for GS-16] *above GS-15* of the General Schedule and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5308 or 5373 of this title.

CHAPTER 55—PAY ADMINISTRATION

Subchapter IX—Severance Pay and Back Pay

§ 5595. Severance pay

(a) For the purpose of this section—

(1) "agency" means—

(A) an Executive agency;

(B) the Library of Congress;

(C) the Government Printing Office; [and]

(D) the government of the District of Columbia; and

(E) the Administrative Office of the United States Courts, the Federal judicial Center, and the courts named under section 610 of title 28; and

(2) "employee" means—

(A) an individual employed in or under an agency; and

(B) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

(i) an employee, other than a member of the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, whose rate of basic pay is fixed at a rate provided for one of the levels of the Executive Schedule or is in excess of the maximum rate for [GS-18;] *level V of the Executive Schedule;*

(ii) an employee serving under an appointment with a definite time limitation, except one so appointed for full-time employment without a break in service of more than 3 days following service under an appointment without time limitation;

(iii) an alien employee who occupies a position outside the several States, the District of Columbia, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979);

(iv) an employee who is subject to subchapter III of chapter 83 of this title or any other retirement statute or retirement system applicable to an employee as defined by section 2105 of this title or a member of a uniformed service and who, at the time of separation from the service,

has fulfilled the requirements for immediate annuity under such a statute or system;

(v) an employee who, at the time of separation from the service, is receiving compensation under subchapter I of chapter 81 of this title, other than one receiving this compensation concurrently with pay or on account of the death of another individual;

(vi) an employee who, at the time of separation from the service, is entitled to receive benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any other severance pay from the Government;

(vii) an employee of the Tennessee Valley Authority; or

(viii) such other employee as may be excluded by regulations of the President or such other office or agency as he may designate.

[(b) Under regulations prescribed by the President or such officer or agency as he may designate, an employee who—

(1) has been employed currently for a continuous period of at least 12 months; and

(2) is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency;

is entitled to be paid severance pay in regular pay periods by the agency from which separated.]

(b)(1) Under regulations prescribed by the President or such officer or agency as he may designate, an employee who—

(A) has been employed currently for a continuous period of at least 12 months; and

(B) is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency;

is entitled to be paid severance pay in regular pay periods by the agency from which separated.

(2) Notwithstanding the provision of paragraph (1), the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section.

§ 5596. Back pay due to unjustified personnel action

(a) For the purpose of this section, "agency" means—

(1) an Executive agency;

(2) the Administrative Office of the United States Courts, *the Federal Judicial Center, and the courts named by section 610 of title 28;*

(3) the Library of Congress;

(4) the Government Printing Office; and

(5) the government of the District of Columbia.

(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—

(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, or under chapter 11 of title I of the Foreign Service Act of 1980, shall be awarded in accordance with standards established under section 7701(g) of this title; and

(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

(B) Such interest—

(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

(iii) shall be compounded daily.

(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.

(3) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

(4) For the purpose of this subsection, "grievance" and "collective bargaining agreement" have the meanings set forth in section 7103 of this title and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980, "unfair labor practice" means an unfair labor practice described in section 7116 of this title and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980, and "person-

nel action" includes the omission or failure to take an action or confer a benefit.

(c) The Office of Personnel Management shall prescribe regulations to carry out this section. However, the regulations are not applicable to the Tennessee Valley Authority and its employees, *or to the agencies described under subsection (a)(2) of this section.*

* * * * * * *

Subpart G—Insurance and Annuities

CHAPTER 83—RETIREMENT

Subchapter III—Civil Service Retirement

§ 8331. Definitions

(a) For the purpose of this subchapter—

(1) "employee' means—

(A) an employee as defined by section 2105 of this title;

(B) the Architect of the Capitol, an employee of the Architect of the Capitol, and an employee of the Botanic Garden;

(C) a Congressional employee as defined by section 2107 of this title (other than the Architect of the Capitol, an employee of the Architect of the Capitol, and an employee of the Botanic Garden), after he gives notice in writing to the official by whom he is paid of his desire to become subject to this subchapter;

(D) a temporary Congressional employee appointed at an annual rate of pay, after he gives notice in writing to the official by whom he is paid of his desire to become subject to this subchapter;

(E) a United States Commissioner whose total pay for services performed as Commissioner is not less than $3,000 in each of the last 3 consecutive calendar years ending after December 31, 1954;

(F) an individual employed by a county committee established under section 590h(b) of title 16;

(G) an individual employed by the government of the District of Columbia;

(H) an individual employed by Gallaudet College;

(I) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); andGovernment, (ii) who is employed full time by a foreign government for the purpose of protecting or furthering the interests of the United States during an interruption of diplomatic or consular relations, and (iii) for whose services reimbursement is made to the foreign government by the United States;

but does not include—

(i) a justice or judge of the United States as defined by section 451 of title 28;

(ii) an employee subject to another retirement system for Government employees;

(iii) an employee or group of employees in or under an Executive agency excluded by the Office of Personnel Management under section 8347(g) of this title;

(iv) an individual or group of individuals employed by the government of the District of Columbia excluded by the Office under section 8347(h) of this title;

[(v) a temporary employee of the Administrative Office of the United States Courts or of a court named by section 610 of title 28;]

(v) an employee of the Administrative Office of the United States Courts, of the Federal Judicial Center, or of a court named by section 610 of title 28, if excluded by the Director of the Administrative Office under section 8347(p) of this title;

(vi) a construction employee or other temporary, part-time or intermittent employee of the Tennessee Valley Authority;

(vii) an employee under the Office of the Architect of the Capitol excluded by the Architect of the Capitol under section 8347(i) of this title;

(viii) an employee under the Library of Congress excluded by the Librarian of Congress under section 8347(j) of this title; or

(ix) a student-employee as defined by section 5351 of this title.

Notwithstanding this paragraph, the employment of a teacher in the recess period between two school years in a position other than a teaching position in which he served immediately before the recent period does not qualify the individual as an employee for the purpose of this subchapter. For the purpose of the preceding sentence, "teacher" and "teaching position" have the meanings given them by section 901 of title 20;

* * * * * * *

§ 8347. Administration; regulations

(a) * * *

* * * * * * *

(p) The Director of the Administrative Office of the United States Courts may exclude from the operation of this subchapter an employee of the Administrative Office, of the Federal Judicial Center, or of a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.

* * * * * * *

CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

Subchapter I—General Provisions

§ 8401. Definitions

(a) For the purposes of this subchapter—

(1) * * *

* * * * * * *

(11) the term "employee" means—

(A) an individual referred to in subparagraph (A), (E), (F), (H), (I), (J) or (K) of section 8331(1) of this title; and

(B) a Congressional employee as defined in section 2107 of this title including a temporary Congressional employee and an employee of the Congressional Budget Office;

whose civilian service after December 31, 1983, is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, except that such term does not include—

(i) any individual referred to in—

(I) clause (i) [(v)] (vi), or (ix) of paragraph (1) of section 8331;

(II) clause (ii) of such paragraph; or

(III) the undesignated material after the last clause of such paragraph;

(ii) any individual excluded under section 8402(c) of this title; or

(iii) a member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980;

* * * * * * *

§ 8402. Federal Employees' Retirement System; exclusions

(a) * * *

* * * * * * *

(c)(1) The Office may exclude from the operation of this chapter an employee or group of employees in or under an Executive agency, the United States Postal Service, or the Postal Rate Commission, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2)).

(2) The Architect of the Capitol may exclude from the operation of this chapter an employee under the Office of the Architect of the Capitol whose employment is temporary or of uncertain duration.

(3) The Librarian of Congress may exclude from the operation of this chapter an employee under the Library of Congress whose employment is temporary or of uncertain duration.

(4) The Director or Acting Director of the Botanic Garden may exclude from the operation of this chapter an employee under the Botanic Garden whose employment is temporary or of uncertain duration.

(5) The Clerk of the House of Representatives and the Secretary of the Senate each may exclude from the operation of this chapter a Congressional employee—

(A) whose employment is temporary or intermittent, and

(B) who is paid by such Clerk or Secretary, as the case may be.

(6) The Director of the Office of Technology Assessment may exclude from the operation of this chapter an employee under the

Office of Technology Assessment whose employment is temporary or intermittent.

(7) The Director of the Administrative Office of the United States Courts may exclude from the operation of this chapter an employee of the Administrative Office, of the Federal Judicial Center, or of a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.

Subchapter VII—Federal Retirement Thrift Investment Management System

§ 8476. Administrative provisions

(a) * * *

* * * * * * *

(d)(1) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at the daily rate of basic pay for [grade GS-18] *above GS-15* of the General Schedule for each day during which such member is engaged in performing a function of the Board.

(2) A member of the Board shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of this title while traveling away from such member's home or regular place of business in the performance of the duties of the Board.

(3) Payments authorized under this subsection shall be paid from the Thrift Savings Fund.

5 U.S.C. App.

"SEC. 101. (a) * * *

* * * * * * *

"(f) The officers and employees referred to in subsections (a), (d), and (e) are—

"(1) the President;

"(2) the Vice President;

"(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified [at GS-16 or above] *above GS-15* of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed [for GS-16;] *for above GS-15* each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

"(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

"(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of

Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

"(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed [for GS-16;] *above GS-15*

"(7) the Director of the Office of Government Ethics and each designated agency ethics official;

"(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President;

"(9) a Member of Congress as defined under section 109(12);

"(10) an officer or employee of the Congress as defined under section 109(13);

"(11) a judicial officer as defined under section 109(10); and

"(12) a judicial employee as defined under section 109(8).

* * * * * * *

"SEC. 109. For the purposes of this title, the term—

"(1) * * *

* * * * * * *

"(8) 'judicial employee' means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Claims Court, of the Court of Veterans Appeals, or of the United States Court of Military Appeals, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who is paid at a rate of basic pay equal to or greater than the minimum rate of pay in effect for [grade GS-16] *above GS-15* of the General Schedule;

* * * * * * *

"(13) 'officer or employee of the Congress' means—

"(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives;

"(B)(i) each officer or employee of the legislative branch who is compensated for at least 60 days at a rate of basic pay equal to or greater than the annual rate of basic pay in effect for [grade GS-16] *above GS-15* of the General Schedule; and

"(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee compensated at a rate equal to or in

excess of the annual rate of basic pay in effect for [grade GS–16] *above GS–15* of the General Schedule;

* * * * * * *

"SEC. 501. OUTSIDE EARNED INCOME LIMITATION.

"(a) OUTSIDE EARNED INCOME LIMITATION.—

"(1) Except as provided by paragraph (2), a Member or an officer or employee who is [not a career civil servant] *a noncareer officer or employee* and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for [grade GS–16] *above GS–15* of the General Schedule under section 5332 of title 5, United States Code, may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.

"(2) In the case of any individual who becomes a Member or an officer or employee who is [not a career civil servant] *a noncareer officer or employee* and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for [grade GS–16] *above GS–15* of the General Schedule during a calendar year, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a [Member, officer or employee which] *Member or such an officer or employee which* exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a [Member, officer or employee during] *Member or such officer or employee during* such calendar year and the denominator of which is 365.

"SEC. 502. LIMITATIONS ON OUTSIDE EMPLOYMENT.

"A Member or an officer or employee who is [not a career civil servant] *a noncareer officer or employee* and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for [grade GS–16] *above GS–15* of the General Schedule shall not—

"(1) [affiliate with or be employed] *receive compensation for affiliating with or being employed* by a firm, partnership, association, corporation, or other entity [to provide professional services which involves] *which provides professional services involving* a fiduciary relationship; [for compensation;]

"(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

"(3) [practice] *receive compensation for practicing* a profession which involves a fiduciary relationship [for compensation];

"(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

"(5) receive compensation for teaching, without the prior notification and approval of the appropriate entity referred to in section 503.

* * * * * * *

5 U.S.C. App.

§ 6. Authority of Inspector General; information and assistance from Federal agencies; unreasonable refusal; office space and equipment; Senior Executive Service positions

(a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided,* That procedures other than subpenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

(6) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(7) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of Title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of

chapter 53 of such title relating to classification and General Schedule pay rates;

(8) to obtain services as authorized by section 3109 of Title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for [grade GS–18 of the General Schedule by section 5332 of Title 5, United States Code;] *level V of Executive Schedule;* and

(9) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

* * * * * * *

§ 7. Responsibilities of the Administrator of General Services; Committee Management Secretariat, establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations

(a) * * *

(d)(1) The Administrator after study and consultation with the Director of the Office of Personnel Management, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for [GS–18 of the General Schedule under section 5332 of title 5, United States Code;] *level V of the Executive Schedule;*

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service; and

(C) such members—

(i) who are blind or deaf or who otherwise qualify as handicapped individuals (within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)), and

(ii) who do not otherwise qualify for assistance under section 3102 of Title 5, by reason of being an employee of an agency (within the meaning of section 3102(a)(1) of such Title 5),

may be provided services pursuant to section 3102 of such Title 5 while in performance of their advisory committee duties.

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

* * * * * * *

TITLE 7, UNITED STATES CODE

CHAPTER 1—COMMODITY EXCHANGES

§ 16. Commission operations

(a)* * *

* * * * * * *

(b) EMPLOYMENT OF INVESTIGATORS, EXPERTS, ADMINISTRATIVE LAW JUDGES, CONSULTANTS, CLERKS, AND OTHER PERSONNEL; CONTRACTS.—The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress. The Commission may employ experts and consultants in accordance with section 3109 of Title 5, and compensate such persons at rates not in excess of the maximum daily rate prescribed for [GS–18 under section 5332 of Title 5.] *level V of the Executive Schedule.* The Commission shall also have authority to make and enter into contracts with respect to all matters which in the judgment of the Commission are necessary and appropriate to effectuate the purposes and provisions of this chapter, including, but not limited to, the rental of necessary space at the seat of Government and elsewhere.

* * * * * * *

CHAPTER 6—INSECTICIDES AND ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER I—INSECTICIDES

§ 136w. Authority of Administrator

(a) * * *

(d) SCIENTIFIC ADVISORY PANEL.—The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 136d(b) of this title and of the proposed and final form of regulations issued under subsection (a) of this section within the same time periods as provided for the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or

waived unless in addition to meeting the requirements of section 136d(b) of this title or subsection (a) of this section, as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this subchapter. The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The chairman of the advisory panel, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations. The subpanels may be composed of scientists other than members of the advisory panel, as deemed necessary for the purpose of evaluating scientific studies relied upon by the Administrator with respect to proposed action. Such additional scientists shall be selected by the advisory panel. The panel referred to in this subsection shall consist of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation utilizing a system of staggered terms of appointment. Members of the panel shall be selected on the basis of their professional qualifications to assess the effects of the impact of pesticides on health and the environment. To the extent feasible to insure multidisciplinary representation, the panel membership shall include representation for the disciplines of toxicology, pathology, environmental biology, and related sciences. If a vacancy occurs on the panel due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Administrator from a group of 4 nominees, 2 submitted by each of the nominating entities named in this subsection. The Administrator may extend the term of a panel member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Administrator shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. Should the list of nominees provided under this subsection be unsatisfactory, the Administrator may request an additional set of nominees from the nominating entities. The Administrator may require such information from the nominees to the advisory panel as he deems necessary, and he shall publish in the Fedeal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for [GS–18 of the General Schedule] *the rate for level V of the Executive Schedule* as may be determined by the Administrator, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position

in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest with respect to the members of the panel. The advisory panel established under this section shall be permanent. In performing the functions assigned by this subchapter, the panel shall consult and coordinate its its activities with the Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978 [42 U.S.C.A. § 4365]. Whenever the Administrator exercises authority under section 136d(c) of this title to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly submit to the advisory panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide.

* * * * * * *

CHAPTER 36—CROP INSURANCE

§ 1505. Board of directors, compensation; manager of Corporation

(a) * * *

* * * * * * *

(c) The Directors of the Corporation who are employed in the Department of Agriculture shall receive no additional compensation for their services as such Directors but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The Directors of the Corporation who are not employed by the Federal Government sahll be paid such compensation for their services as Directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for [grade GS–18 under section 5332 of Title 5] *level V of the Executive Schedule* when actually employed, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.

CHAPTER 43—FOREIGN MARKET DEVELOPMENT

Subchapter I—General Provisions; Agricultural Counselors and Agricultural Attachés

§ 1762. Personnel

(a) * * *

* * * * * * *

(d) ASSIGNMENT TO UNITED STATES.—Any officer or employee appointed and assigned to a post aboard pursuant to this subchapter may, in the discretion of the Secretary of Agriculture, be assigned for duty in the continental United States, without regard to the civil service laws (and without reduction in grade if an appropraite

position at the employee's grade is not available in any agency of the Department of Agriculture), for a period of not more than three years: *Provided,* That the total number of such employees assigned for duty in the continental United States under this provision shall not exceed fifteen at any one time: *Provided further,* That this Act shall not increase the number of persons employed at [grade GS–16, GS–17, or GS–18.] *above GS–15.*

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Subchapter II—United States Agriculture Trade Offices

§ 1765a. Agriculture Trade Offices

(a) * * *

* * * * * * *

(c) APPOINTMENT AND COMPENSATION OF OFFICERS.—Each Agricultural Trade Officer may be appointed without regard to the provisions of Title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer (1) may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for [GS–17] *above GS–15* of the General Schedule under section 5332 of such title, or (2) may be paid at a rate in excess of the highest rate paid to an Agricultural Counselor or Attaché, as the case may be, who is appointed under subchapter I of this chapter to the nation in which such Officer is to serve.

CHAPTER 64—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Subchapter I—Findings, Purposes, and Definitions

§ 3127. Support for Joint Council on Food and Agricultural Science and for National Agricultural Research and Extension Users Advisory Board

(a) APPOINTMENT OF STAFF.—To assist the Joint Council and the Advisory Board in the performance of their duties, the Secretary may appoint, after consultation with the cochairpersons of the Joint Council and the chairperson of the Advisory Board—

(1) a full-time executive director who shall perform such duties as the cochairpersons of the Joint Council and the chairperson of the Advisory Board may direct and who shall receive compensation at a rate not to exceed the rate payable [for GS–18 of the General Schedule established in section 5332 of Title 5;] *above GS–15;* and

(2) a professional staff of not more than five full-time employees qualified in the food and agricultural sciences, of which one shall serve as the executive secretary of the Joint Council and one shall serve as the executive secretary to the Advisory Board.

TITLE 8, UNITED STATES CODE

CHAPTER 12—IMMIGRATION AND NATIONALITY

PART VIII—GENERAL PENALTY PROVISIONS

§ 1324b. Unfair immigration-related employment practices

(a) * * *

* * * * * * *

(c) SPECIAL COUNSEL.—

(1) APPOINTMENT.—The president shall appoint, by and with the advice and consent of the Senate, a Special Counsel for Immigration-Related Unfair Employment Practices (hereinafter) in this section referred to as the "Special Counsel") within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (i)(1) of this section.

(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for [grade GS–17] *above GS–15* of the General Schedule, under section 5332 of Title 5.

(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out this duties.

* * * * * * *

CHAPTER 13—IMMIGRATION AND NATURALIZATION SERVICE

§ 1553. Assistant Commissioners and one District Director; compensation and salary grade

The compensation of the five assistant commissioners and one district director shall be at the rate [of grade GS–16.] *above GS–15.*

TITLE 10, UNITED STATES CODE

CHAPTER 137—PROCUREMENT GENERALLY

§ 2318. Advocates for competition

(a) * * *

(b) Each advocate for competition of an agency named in section 2303(a) of this title shall be a general or flag officer if a member of the armed forces or a grade [GS–16 or above] *above GS–15* under

the General Schedule (or in a comparable or higher position under another schedule), if a civilian employee and shall be designated to serve for a minimum of two years.

* * * * * * *

CHAPTER 605—UNITED STATES NAVAL POSTGRADUATE SCHOOL

§ 7043. Academic Dean

(a)* * *

(b) The Academic Dean is entitled to such compensation for his services as the Secretary prescribes, but not more than the rate of compensation authorized for [grade GS–18 of the General Schedule under section 5332 of title 5.] *the rate for level V of the Executive Schedule.*

TITLE 12, UNITED STATES CODE

CHAPTER 13—NATIONAL HOUSING

Subchapter IX—C—National Insurance Development Program

§ 1749bbb-1. Advisory Board

(a) * * *

* * * * * * *

(d) COMPENSATION AND TRAVEL EXPENSES.—The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States, and such members, except those who are regular full-time employees of the Government, shall receive for their services, as members, the per diem equivalent to the rate for [grade GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* when engaged in the performance of their duties, and each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

* * * * * * *

CHAPTER 25—NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

§ 2405. Executive Director and additional staff personnel; appointment and compensation; experts and consultants; employment and compensation; audits by Comptroller General

(a) The Commission—

(1) may appoint with the advice and consent of the Senate and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to chapter 51 and

subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for [GS–18 of the General Schedule under section 5332 of such title;] *level V of the Executive Schedule;* and

(2) may procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5, but at rates not to exceed $150 a day for individuals.

* * * * * * *

CHAPTER 31—NATIONAL CONSUMER COOPERATIVE BANK

Subchapter I—Establishment and Operation

§ 3013. Board of Directors

(a) * * *

* * * * * * *

(r) COMPENSATION AND EXPENSES.—Members of the Board appointed by the President from among the officers of the agencies and departments of the United States Government shall not receive any additional compensation by virtue of their service on the Board. The member of the Board appointed from among proprietors of small business and the member of the Board appointed pursuant to subsection (b)(1)(C) of this section shall (1) receive compensation at a rate equal to the daily equivalent of the rate prescribed for [grade GS–18 under section 5332 of Title 5] *level V of the Executive Schedule* for each day that they are engaged in the performance of their duties on the Board, and (2) be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of Title 5 for each day that they are away from their homes or regular places of business in the performance of their duties on the Board. The members of the Board who are elected by the holders of class B stock and class C stock shall be compensated in accordance with the bylaws of the Bank. All compensation and expenses paid to the members of the Board of Directors shall be paid by the Bank.

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TITLE 15, UNITED STATES CODE

CHAPTER 7—BUREAU OF STANDARDS

§ 278. Visiting committee on advanced technology

(a)* * *

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(g) PROFESSIONAL AND CLERICAL STAFF.—The Committee may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than four professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consulta-

tion with the Chairman of the Committee, and assigned at the direction of the Committee. The professional members of such staff may be appointed without regard to the provisions of Title 5 governing appointments in the competitive service and the provisions of chapter 51 of Title 5 relating to classification, and compensated at a rate not exceeding the apporpriate rate provided for individuals [in grade GS-18 of the General Schedule under section 5332 of Title 5,] *at the rate for level V of the Executive Schedule* as may be necessary to provide for the performance of such duties as may be prescribed by the Committee in connection with the exercise of its powers and functions under this chapter.

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CHAPTER 14A—AID TO SMALL BUSINESS

§ 648. Small business development center program authorization

(a) * * *

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(i) NATIONAL SMALL BUSINESS DEVELOPMENT CENTER ADVISORY BOARD; ESTABLISHMENT; MEMBERSHIP; TERM; CHAIRMAN; ADVISORY AND COUNSELING FUNCTIONS; MEETINGS; COMPENSATION.—(1) There is established a National Small Business Development Center Advisory Board (herein referred to as "Board") which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least semiannually and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position [under GS-18 of the General Schedule] *at the rate for level V of the Executive Schedule* for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

CHAPTER 16B—FEDERAL ENERGY ADMINISTRATION

Subchapter II—Office of Energy Information and Analysis

§ 790b. Administrative provisions

(a) * * *

(b) AUTHORIZATION OF DIRECTOR TO APPOINT AND FIX COMPENSATION OF EMPLOYEES.—To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to ten of the employees [in grade GS–16, GS–17, or GS–18] *above grade GS–15* authorized by section 766 of this title.

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CHAPTER 30—HAZARDOUS SUBSTANCES

§ 1275. Toxicological Advisory Board

(a) * * *

(b)(1) MEMBERSHIP; APPOINTMENT; QUALIFICATIONS; CHAIRMAN; TERM OF OFFICE; REAPPOINTMENT; VACANCIES; MEETINGS; COMPENSATION AND TRAVEL EXPENSES; FEDERAL NONEMPLOYEE STATUS.—The Board shall be composed of nine members appointed by the Commission. Each member of the Board shall be qualified by training and experience in one or more fields applicable to the duties of the Board, and at least three of the members of the Board shall be members of the American Board of Medical Toxicology. The Chairman of the Board shall be elected by the Board from among its members.

(2) The members of the Board shall be appointed for terms of three years. Members of the Board may be reappointed.

(3) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term.

(4) The Board shall meet at such times and places as may be designated by the Commission in consultation with the Chairman, but not less than two times each year.

(5) Members of the Board who are not officers or employees of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate [of basic pay payable for grade GS–18 of the General Schedule under section 5332 of Title 5.] *for level V of the Executive Schedule.* While away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of such title. Individuals serving as members on the Board

shall not be considered officers or employees of the United States by reason of receiving payments under this paragraph.

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CHAPTER 47—CONSUMER PRODUCT SAFETY

§ 2053. Consumer Product Safety Commission

(a) * * *

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(g)(1) EXECUTIVE DIRECTOR; OFFICERS AND EMPLOYEES.—The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule.] *level V of the Executive Schedule.*

(2) The Chairman, subject to subsection (f)(2) of this section, may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions.

(3) In addition to the number of positions authorized by section 5108(a) of Title 5, the Chairman, subject to the approval of the Commission, and subject to the standards and procedures prescribed by chapter 51 of Title 5, may place a total of twelve positions [in grades GS–16, GS–17, and GS–18.] *above GS–15.*

(4) The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.

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§ 2077. Chronic hazard advisory panels

(a) * * *

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(f) COMPENSATION.—A member of a Panel appointed under subsection (a) of this section shall be paid at a rate not to exceed the equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule] *grades above GS–15* for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Panel.

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CHAPTER 51—NATIONAL PRODUCTIVITY AND QUALITY OF WORKING LIFE

Subchapter I.—Findings, Purpose, and Policy, Definitions

§ 2412. Board of Directors

(a)* * *

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(d)(1) COMPENSATION, TRAVEL, SUBSISTENCE, AND OTHER EXPENSE ITEMS.—Each member of the Board appointed under clauses (7), (8),

(9), (10), (11), and any private sector members appointed pursuant to clause (12) of subsection (a) of this section may be compensated at the daily rate provided for [GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule*, including traveltime, for each day such member is engaged in the performance of his duties as a member of the Board and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in carrying out the functions of the Board.

(2) Other members of the Board, with the exception of the Chairman, and the Executive Director of the Center shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board.

(3) The Chairman shall be compensated as set forth in paragraph (1) of this subsection, except if the Chairman holds some other position in the Federal Government such individual shall be compensated as set forth in paragraph (2) of this subsection.

* * * * * * *

§ 2451. Authority of Executive Director

The Executive Director is authorized to—

(1) prescribe such regulations as are deemed necessary to carry out the purposes of this chapter;

(2) receive money and other property donated, bequeathed, or devised, or remitted in payment for services rendered, without conditions or restriction other than that it be for the purposes of the Center.

(3) receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money or other property donated, bequeathed, or devised to the Center, except for such money and other property which includes a condition that the Center use other funds of the Center for the purpose of the gift, in which case two-thirds of the members of the Board of the Center must approve such donations;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter in accordance with the provisions of Title 5, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) obtain the services of expert and consultants in accordance with the provisions of section 3109 of Title 5, at rates for individuals not to exceed the maximum daily rate prescribed for [GS–18 under section 5332 of title 5;] *level V of the Executive Schedule;*

(6) accept and utilize the services for voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem as authorized by section 5703 of Title 5;

(7) utilize, on a reimbursable or nonreimbursable basis the services, equipment, personnel, and facilities of any other department or agency of the United States;

(8) establish one or more task forces to assist and advise the Center, composed of individuals who, by reason of experience,

are qualified for such service. Each member of any such task force who is not an officer or employee of the Federal Government may receive an amount not to exceed the maximum daily rate perscribed for [GS–18 under section 5332 of Title 5] *level V of the Executive Schedule* for each day such individual is engaged in the actual performance of duties (including traveltime) as a member of such a task force. Members may be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties; and

(9) make advances, progress, and other payments deemed necessary under this chapter without regard to the provisions of section 3324(a) and (b) of Title 31.

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CHAPTER 67—ARCTIC RESEARCH AND POLICY

§ 4102. Arctic Research Commission

(a) * * *

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(d) COMPENSATION AND TRAVEL EXPENSES; FEDERAL EMPLOYEES, STATUS; MEETINGS; OBSERVER-DESIGNEES.—(1) Members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5. A member of the Commission not presently employed for compensation shall be compensated at a rate equal to the daily equivalent of the rate [for GS–16] *above GS–15* of the General Schedule under section 5332 of Title 5 for each day the member is engaged in the actual performance of his duties as a member of the Commission, not to exceed 90 days of service each year. Except for the purposes of chaper 81 of Title 5 [5 U.S.C.A § 8101 et seq.] (relating to compensation for work injuries) and chapter 171 of Title 28 [28 U.S.C.A. § 2671 et seq.] (relating to tort claims), a member of the Commission shall not be considered an employee of the United States for any purpose.

(2) The Commission shall meet at the call of its Chairman or a majority of its members.

(3) Each Federal agency referred to in section 4106(b) of this title may designate a representative to participate as an observer with the Commission. These representatives shall report to and advise the Commission on the activities relating to Arctic research of their agencies.

(4) The Commission shall conduct at least one public meeting in the State of Alaska annually.

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CHAPTER 74—COMPETITIVENESS POLICY COUNCIL

§ 4804. Membership

(a) * * *

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(f) COMPENSATION.—(1) Each member of the Council who is not employed by the Federal Government or any State or local government—

(A) shall be compensated at a rate equal to the daily equivalent of the rate for [GS–18 of the General Schedule pursuant to section 5332 of Title 5,] *level V of the Executive Schedule* for each day such member is engaged in duties as a member of the Council; and

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of Title 5.

(2) Each member of the Council who is employed by the Federal Government or any State or local government shall serve on the Council without additional compensation, but while engaged in duties as a member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place or residence of such member, in accordance with subchapter I of chapter 57, of Title 5.

§ 4805. Executive Director and staff

(a) EXECUTIVE DIRECTOR.—(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council and who shall be paid at a rate not to exceed [GS–18 of the General Schedule] *level V of the Executive Schedule.*

(2) The Executive Director shall serve on a full-time basis.

* * * * * * *

TITLE 16, UNITED STATES CODE

CHAPTER 1A—HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES

Subchapter I—General Provisions

§ 469j. Commission for the Preservation of America's Heritage Abroad

(a) * * *

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(g) AUTHORITIES.—(1) The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may appoint such personnel (subject to the provisions of Title 5 which govern appointments in the competitive service) and may fix the pay of such personnel (subject to the provisions of chapter 51 and subchapter III of chapter 53 of such title,

relating to classification and General Schedule pay rates) as the Commission deems desirable.

(3) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of Title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for [grade GS-18 of the General Schedule (5 U.S.C. § 5332(a)).] *level V of the Executive Schedule.*

(4) Upon request of the Commission, the head of any Federal department or agency, including the Secretary of State, may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section.

(5) The Commission may secure directly from any department or agency of the United States, including the Department of State, any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

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CHAPTER 12—FEDERAL REGULATION AND DEVELOPMENT OF POWER

Subchapter III—Licensees and Public Utilities; Procedural and Administrative Provisions

§ 825q-1. Office of Public Participation

(a)(1) There shall be an office in the Commission to be known as the Office of Public Participation (hereinafter in this section referred to as the "Office").

(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the Chairman with the approval of the Commission. The Director may be removed during his term of office by the Chairman, with the approval of the Commission, only for inefficiency, neglect of duty, or malfeasance in office.

(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated at a rate not in excess of the maximum rate prescribed for [GS-18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

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CHAPTER 12H—PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION

§ 839b. Regional planning and participation

(a) PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL; ESTABLISHMENT AND OPERATION AS REGIONAL AGENCY.—(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council, to further

the purposes of this chapter by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife, and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this chapter.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this chapter, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this chapter, (iii) shall continue in force and effect in accordance with the provisions of this chapter, and (iv) except as otherwise provided in this chapter, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and

(B) two persons from each State may be appointed, subject to the applicable laws of each such State, to undertake the functions and duties of members of the Council.

The State may fill any vacancy occurring prior to the expriation of the term of any member. The appointment of six initial members, subject to applicable State law, by June 30, 1981, by at least three of such States shall constitute an agreement by the States establishing the Council and such agreement is hereby consented to by the Congress. Upon request of the Governors of two of the States, the Secretary shall extend the June 30, 1981, date for six additional months to provide more time for the States to make such appointments.

(3) Except as otherwise provided by State law, each member appointed to the Council shall serve for a term of three years, except that, with respect to members initially appointed, each Governor shall designate one member to serve a term of two years and one member to serve a term of three years. The members of the Council shall select from among themselves a chairman. The members and officers and employees of the Council shall not be deemed to be officers or employees of the United States for any purpose. The Council shall appint, fix compensation, and assign and delegate duties to such executive and additional personnel as the Council deems necessary to fulfill its functions under this chapter, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this chapter. The compensation of the members shall be fixed by State law. The compensation of the members and officers shall not exceed the rate prescribed for Federal officers and positions at [step 1 of level GS–18 of the General Schedule.] *level V of the Executive Schedule.*

(4) For the purpose of providing a uniform system of laws, in addition to this chapter, applicable to the Council relating to the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Council, advisory committees, disclosure of information, judicial review of Council functions and actions under this

chapter, and related matters, the Federal laws applicable to such matters in the case of the Bonneville Power Administration shall apply to the Council to the extent appropriate, except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service. No contract, obligation, or other action of the Council shall be construed as an obligation of the United States or an obligation secuied by the full faith and credit of the United States. For the purpose of judicial review of any action of the Council or challenging any provision of this chapter relating to functions and responsibilities of the Council, notwithstanding any other provision of law, the courts of the United States shall have exclusive jurisdiction of any such review.

(b) ALTERNATIVE ESTABLISHMENT OF COUNCIL AS FEDERAL AGENCY.—(1) If the Council is not established and its members are not timely appointed in accordance with subsection (a) of this section, or if, at any time after such Council is established and its members are appointed in accordance with subsection (a) of this section—

(A) any provision of this chapter relating to the establishment of the Council or to any substantial function or responsibility of the Council (including any function or responsibility under subsection (d) or (h) of this section or under section 839d(c) of this title) is held to be unlawful by a final determination of any Federal court, or

(B) the plan or any program adopted by such Council under this section is held by a final determination of such a court to be ineffective by reason of subsection (a)(2)(B) of this section,

the Secretary shall establish the Council pursuant to this subsection as a Federal agency. The Secretary shall promptly publish a notice thereof in the Federal Register and notify the Governors of each of the States referred to in subsection (a) of this section.

(2) As soon as practicable, but not more than thirty days after the publication of the notice referred to in paragraph (1) of this subsection, and thereafter within forty-five days after a vacancy occurs, the Governors of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each of the State's positions to be selected for such Council. The Secretary may extend this time an additional thirty days. The list shall include at least two persons for each such position. The list shall include such information about such nominees as the Secretary may request. The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions, except that the Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within forty-five days of receipt of such notice until nominees acceptable to the Secretary are appointed for each position. In the

event the Governor of any such State fails to make the required nominations for any State position on such Council within the time specified for such nominations, the Secretary shall select from such State and appoint the Council member or members for such position. The members of the Council shall select from among themselves one member of the Council as Chairman.

(3) The members of the Council established by this subsection who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS–18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of such Council, except that no such member may be paid more in any calendar year than an officer or employee [at step 1 of level GS–18] *above GS–15* is paid during such year. Members of such Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.) and shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of Title 5. Such Council may appoint, and assign duties to, an executive director who shall serve at the pleasure of such Council and who shall be compensated at the rate established for [GS–18 of the General Schedule.] *Level V of the Executive Schedule.* The executive director shall exercise the powers and duties delegated to such director by such Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions and responsibilities of such Council.

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CHAPTER 31—MARINE MAMMAL PROTECTION

Subchapter III—Marine Mammal Commission

§ 1401. Establishment

(a) * * *

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(d) Compensation; Reimbursement for Travel Expenses.—Members of the Commission shall each be compensated at a rate equal to the daily equivalent of the rate for [GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

(e) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director, who shall be appointed (without regard to the provisions of Title 5 governing appointments in the competitive service) by the Chairman with the approval of the Commission and shall be paid at a rate not in excess of the rate for [GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive*

Schedule. The Executive Director shall have such duties as the Chairman may assign.

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§ 1403. Committee of Scientific Advisors on Marine Mammals

(a) * * *

(b) COMPENSATION; REIMBURSEMENT FOR TRAVEL EXPENSES.—Except for United States Government employees, members of the Committee shall each be compensated at a rate equal to the daily equivalent of the rate for [GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* for each day such member is engaged in the actual performance of duties vested in the Committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

CHAPTER 38—FISHERY CONSERVATION AND MANAGEMENT

Subchapter IV—National Fishery Management Program

§ 1852. Regional fishery management councils

(a) * * *

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(d) COMPENSATION AND EXPENSES.—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for [GS–18 of the General Schedule] *level V of the Executive Schedule* when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C) of this section, and the nonvoting member appointed pursuant to subsection (c)(2) of this section shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members may be reimbursed for actual expenses.

CHAPTER 56A—PACIFIC SALMON FISHING

§ 3640. Administrative matters

(a) COMPENSATION OF COMMISSIONERS AND ALTERNATE COMMISSIONERS.—Commissioners and Alternate Commissioners who are not State or Federal employees shall receive compensation at the daily rate of [GS–18 of the General Schedule] *level V of the Executive Schedule* when engaged in the actual performance of duties for the United States Section or for the Commission.

(b) COMPENSATION OF PANEL MEMBERS AND ALTERNATE PANEL MEMBERS.—Panel Members and Alternate Panel Members who are not State or Federal employees shall receive compensation at the daily rate of [GS–16] *above GS–15* of the General Schedule when

engaged in the actual performance of duties for the United States Section or for the Commission.

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CHAPTER 57—NATIONAL FISH AND WILDLIFE FOUNDATION

§ 3702. Board of Directors of Foundation

(a) * * *

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this chapter; and

(C) undertaking of other such acts as may be necessary to carry out the provisions of this chapter.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of Title 5, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule.] *level V of the Executive Schedule.*

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer, and (ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.

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TITLE 18—UNITED STATES CODE

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

§ 207. Disqualifications of former officers and employees; disqualification of partners of current officers and employees

(a) * * *

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(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employ-

ee of the executive branch (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

(i) employed at a rate of pay fixed according to subchapter II of chapter 53 of title 5, or a comparable or greater rate of pay under other authority.

(ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay is equal to or greater than the basic rate of pay payable for [GS–17] *above GS–15* of the General Schedule.

(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, or

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O–7 or above.

(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

(C) Subparagarph (A)(ii) includes persons employed in the Senior Executive Service at the basic rate of pay specified in that subparagraph.

(D) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and

(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

(A) serves in the position of Vice President of the United States,

(B) is employed in a position paid at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States shall be punished as provided in section 216 of this title.

(2) ENTITIES TO WHICH RESTRICTIONS APPLY.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

(B) any other person appointed to a position in the executive branch which is listed in sections 5312, 5313, 5314, 5315, or 5316 of title 5.

(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

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(6) LIMITATION ON RESTRICTIONS.—The restrictions contained in paragraphs (2), (3), (4), and (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid for such service at a basic rate of pay equal to or greater than the basic rate of pay payable for [GS-17] *above GS-15* of the General Schedule under section 5332 of title 5.

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CHAPTER 319—NATIONAL INSTITUTE OF CORRECTIONS

§ 4351. Establishment; Advisory Board; appointment of members; compensation; officers; committees; delegation of powers; Director, appointment and powers

(a) * * *

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(d) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Commission who are full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in

the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Commission pursuant to this title, be entitled to receive compensation at the rate not to exceed the daily equivalent of the rate authorized for [GS–18 by section 5332 of title 5, United States Code,] *level V of the Executive Schedule*, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(e) The Board shall elect a chairman from among its members who shall serve for a term of one year. The members of the Board shall also elect one or more members as a vice-chairman.

(f) The Board is authorized to appoint, without regard to the civil service laws, technical, or other advisory committees to advise the Institute with respect to the administration of this title as it deems appropriate. Members of these committees not otherwise employed by the United States, while engaged in advising the Institute or attending meetings of the committees, shall be entitled to receive compensation at the rate fixed by the Board but not to exceed the daily equivalent of the rate authorized for [GS–18 by section 5332 of title 5, United States Code,] *level V of the Executive Schedule*, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

§ 4352. Authority of Institute; time; records of recipients; access; scope of section

(a) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority—

(1) to receive from or make grants to and enter into contracts with Federal, State, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this chapter;

(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

(3) to assist and serve in a consulting agency to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

(4) to encourage and assist Federal, State, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

(5) to devise and conduct, in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges, and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay ex-offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and with the State and local agencies which work with prisoners, parolees, probationers, and other offenders;

(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, and local correctional agencies, organizations, institutions, and personnel;

(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system;

(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

(12) to confer with and avail itself of the assistance, services, records, and facilities of State and local governments or other public or private agencies, organizations, or individuals;

(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

(14) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for [GS–18 by section 5332 of title 5 of the United States Code.] *level V of the Executive Schedule.*

TITLE 19, UNITED STATES CODE

CHAPTER 12—TRADE ACT OF 1974

PART 4—OFFICE OF UNITED STATES TRADE REPRESENTATIVE

§ 2171. Structure, functions, powers, and personnel

(a) * * *

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(e) POWERS OF UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties, except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed the rate of pay for level IV of the Executive Schedule in section 5314 of Title 5—;

(2) employ experts and consultants in accordance with section 3109 of Title 5 and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for [grade GS–18 as provided in section 5332 of Title 5,] *level V of the Executive Schedule,* and while such experts and consultants are so serving away from their homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of Title 5 for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions, powers and duties vested in him;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the United States Trade Representative may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of Title 31;

(7) adopt an official seal, which shall be judicially noticed;

(8) pay for expenses approved by him for official travel without regard to the Federal Travel Regulations or to the provisions of subchapter I of chapter 57 of Title 5 [5 U.S.C.A. § 5701 et seq.] (relating to rates of per diem allowances in lieu of subsistence expenses);

(9) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office;

(10) acquire, by purchase or exchange, not more than two passenger motor vehicles for use abroad, except that no vehicle may be acquired at a cost exceeding $9,500; and

(11) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.

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TITLE 20, UNITED STATES CODE

CHAPTER 25A—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

§ 929. Advisory Council on Dependents' Education

(a) * * *

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(d) COMPENSATION, ETC., OF MEMBERS.—Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for [grade GS–18 in section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons employed intermittently in the Government service.

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CHAPTER 26—SUPPORT AND SCHOLARSHIP IN HUMANITIES AND ARTS; MUSEUM SERVICES

Subchapter I—National Foundation on the Arts and the Humanities

§ 955. National Council on the Arts

(a) * * *

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(e) COMPENSATION OF MEMBERS.—Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for [grade GS–18 by section 5332 of Title 5] *level V of the Executive Schedule* and be allowed travel expenses including per diem in lieu of subsistence,

as authorized by law (section 5703 of Title 5) for persons in the Government service employed intermittently.

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§ 957. National Council on the Humanities

(a) * * *

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(e) COMPENSATION AND TRAVEL EXPENSES.—Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for [grade GS–18 by section 5332 of Title 5] *level V of the Executive Schedule* and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of Title 5) for persons in the government service employed intermittently.

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Subchapter II—Museum Services

§ 963. National Museum Service Board

(a) * * *

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(e) COMPENSATION AND TRAVEL EXPENSES OF MEMBERS.—Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation for service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for [grade GS–18 set forth in section 5322 of Title 5,] *level V of the Executive Schedule,* including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, for persons employed in Government service.

§ 964. Director of Institute

(a) * * *

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(c) APPOINTMENT AND COMPENSATION OF TECHNICAL AND PROFESSIONAL EMPLOYEES.—The Director may appoint without regard to the provisions of Title 5, governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates not to exceed one-fifth of the number of full-time regular technical or professional employees of the Institute. The rate of basic compensation for such employees may not equal or exceed the rate prescribed for [GS–16] *above GS–15* of the General Schedule under section 5332 of Title 5.

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CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

Subchapter IV—Student Assistance

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

§ 1098. Advisory Committee on Student Financial Assistance

(a) * * *

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(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of Title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle [1] III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for [GS-18 of the General Schedule.] *level V of the Executive Schedule.*

(2) In carrying out its duties under this chapter, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of Title 5.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

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Subchapter IX—Graduate Programs

PART C—JACOB K. JAVITS FELLOWS PROGRAM

§ 1134i. Allocation of fellowships

(a) FELLOWSHIP BOARD.—(1) The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board consisting of not less than 9 and not more than 15 individuals prior to July 31, 1987, 13 individuals after July 31, 1987, and prior to August 1, 1989, 11 individuals after July 31, 1989, and prior to August 1, 1991, and 9 individuals after July 31, 1991, representatives of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in arts, humanities, and social sciences.

(2) The Board shall—

(A) establish general policies for the program established by this part and oversee its operation;

(B) establish general criteria for the distribution of fellowships among eligible acedemic fields identified by the Board;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) The term of office of each member of the Board shall be 4 years; except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6)(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by

the Secretary, but not exceeding the rate prescribed for [GS–18 of the General Schedule under section 5332, Title 5] *level V of the Executive Schedule,* including travel-time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, for persons in Government service employed intermittently.

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Subchapter VII—General Provisions

§ 1145a. Commission to study postsecondary institutional and programmatic recognition process

(a) * * *

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(h) APPOINTMENT, COMPENSATION AND TRAVEL EXPENSES OF SUPPORT PERSONNEL; OFFICE SPACE, SUPPLIES ND EQUIPMENT; AUTHORITY OF COMMISSION IN CONDUCTING STUDY; ASSISTANCE, SUPPORT AND DETAIL OF PERSONNEL FROM OTHER AGENCIES; CONTRACTS, TECHNICAL ASSISTANCE, ETC.—(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space, clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for [GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof.

(2) In conducting the study authorized by this section, the Commission is authorized to—

(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

(B) arrange for the detail of staff personnel from other Federal agencies;

(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

(E) provide transportation and subsistence for persons serving without compensation.

(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

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CHAPTER 31—GENERAL PROVISIONS CONCERNING EDUCATION

SUBCHAPTER I—OFFICES AND PERSONNEL IN DEPARTMENT OF EDUCATION

§ 1221e–1. National Center for Educational Statistics

(a) * * *

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(e) TABLES AND OTHER STATISTICAL RECORDS AND SPECIAL STATISTICAL COMILATIONS AND SURVEYS; COMPILATIONS AND SURVEYS FOR CONGRESSIONAL COMMITTEES; PAYMENT OF COST; JOINT STATISTICAL PROJECTS, EQUITABLE SHARING OF COST; SEPARATE ACCOUNT FOR FUNDS; USES; EDUCATIONAL DATA CONSORTIUM WITH OTHER FEDERAL AGENCIES; ACCESS TO DATA BY INTERESTED PARTIES; AUTHORITY OF COMMISSIONER.—(1) The Center is authorized to furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals. The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Human Resources and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Secretary: *Provided,* That the purposes of such projects are otherwise authorized by law. All funds received in payment for work or services described in this paragraph shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

(2)(A) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Human Resources and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph, be considered Federal agencies.

(B) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for purposes of research and acquiring statistical information.

(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts under regular competitive procedures of the Federal Government or other financial arrangements. Contracts or financial arrangements may also include sole source contracts with States, additional institutions, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

(5) In addition to the condition of education report under subsection (d) of this section, the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner.

(6) The Commissioner is authorized to use information collected by other offices in the Department of Education and by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purpose of this section and may assign employees to the Center to any such agency, organization, or institution to assist in such collection.

(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, libraries, administrators, teachers, students, the general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

(8) To assure the technical quality and the coordination of statistical activities of the Department, the Commissioner shall provide technical assistance to Department offices that gather data for statistical purposes. Such assistance may include a review of and advice on data collection plans, survey design and pretests, the management of data, and the quality of reporting of data.

(9) The Commissioner is authorized to

(A) select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Center, subject to the provisions of Title 5 (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates); and

(B) notwithstanding any other provisions of this chapter, to obtain services as authorized by section 3109 of Title 5 at a rate not to exceed the equivalent daily rate payable for [grade GS-18 of the General Schedule under section 5332 of such title.] *level V of the Executive Schedule.*

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Subchapter IV—Advisory Council

§ 1233c. Compensation and travel expenses of members of advisory councils

Members of all advisory councils to which this subchapter is applicable who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the advisory council or otherwise engaged in the business of the advisory council, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for [grade GS–18 in section 5332 of Title 5,] *level V of the Executive Schedule* including traveltime, and while so serving on the business of the advisory council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons employed intermittently in the Government service.

§ 1233d. Professional, technical and clerical staff

(a) * * *

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(c) TEMPORARY AND INTERMITTENT SERVICES OF EXPERTS AND CONSULTANTS.—Subject to regulations of the Secretary, Presidential advisory councils are authorized to procure temporary and intermittent services of such personnel as are necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate specified at the time of such service for [grade GS–18 in section 5332 of such title.] *level V of the Executive Schedule.*

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CHAPTER 33—EDUCATION OF HANDICAPED

Subchapter I—General Provisions

§ 1402. Office of Special Education Programs

(a) * * *

(b) DEPUTY ASSISTANT SECRETARY: SELECTION AND SUPERVISION, COMPENSATION; ASSOCIATE DEPUTY ASSISTANT SECRETARY AND MINIMUM NUMBER OF ASSISTANTS: ESTABLISHMENT, COMPENSATION.—(1) The office established under subsection (a) of this section shall be headed by a Deputy Assistant Secretary who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. The position of Deputy Assistant Secretary shall be in [grade GS–18 of the General Schedule under section 5104 of Title 5,] *level V of the Executive Schedule* and shall be a Senior Executive Service position for the purposes of section 3132(a)(2) of such title.

(2) In addition to such Deputy Assistant Secretary, there shall be established in such office not less than six positions for persons to assist the Deputy Assistant Secretary, including the position of the Associate Deputy Assistant Secretary. Each such position shall be

in grade GS–15 of the General Schedule under section 5104 of Title 5.

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CHAPTER 34—NATIONAL COMMISSION OF LIBRARIES AND INFORMATION SCIENCE

§ 1505. Membership

(a) * * *

(b) COMPENSATION; TRAVEL EXPENSES.—Members of the Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Commission or otherwise engaged in the business of the Commission, be entitled to receive compensation at a rate fixed by the Chairman, but not exceeding the rate specified at the time of such service for [grade GS–18 in section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons employed intermittently in the Government service.

(c) PROFESSIONAL AND TECHNICAL PERSONNEL.—(1) The Commission is authorized to appoint, without regard to the provisions of Title 5 covering appointments in the competitive service, such professional and technical personnel as may be necessary to enable it to carry out its function under this chapter.

(2) The Commission may procure, without regard to the civil service or classification laws, temporary and intermittent services of such personnel as is necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate specified at the time of such service [grade GS–18 in section 5332 of Title 5,] *level V of the Executive Schedule* including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons employed intermittently in the Government service.

CHAPTER 42—HARRY S. TRUMAN MEMORIAL SCHOLARSHIPS

§ 2012. Administrative provisions

(a) POWERS OF FOUNDATION.—In order to carry out the provisions of this chapter, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chpater, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of Title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate speci-

fied at the time of such service for [grade GS–18 in section 5332 of such title;] *level V of the Executive Schedule;*

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of Title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of Title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of Title 31;

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

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CHAPTER 43—AMERICAN FOLKLIFE PRESERVATION

§ 2103. American Folklife Center

(a) * * *

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(f) DIRECTOR; DEPUTY DIRECTOR; APPOINTMENT AND COMPENSATION.—After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at a per year rate not to exceed [GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.* The Librarian upon the recommendation of the Director shall appoint a Deputy Director of the Center. The basic pay of the Deputy Director shall be fixed at a rate not to exceed GS–16 of the General Schedule under section 5332 of such title.

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CHAPTER 47—STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS

Subchapter 1—Financial Assistance to Meet Special Educational Needs of Children

PART F—GENERAL PROVISIONS

Subpart I—Federal Administration

§ 2839. National Commission on Migrant Education

(a) * * *

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(f) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of Title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of Title 5 relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authrized for [GS–18 of the General Schedule.] *level V of the Executive Schedule.*

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Subchapter V—Drug Education

§ 3172 note. Findings

(a) * * *

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(g) COMPENSATION.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for [grade GS–18 of the General Schedule under section 5332 of title 5, United States Code [5 U.S.C.A. § 5332]], *level V of the Executive Schedule,* for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the peformance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

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CHAPTER 48—DEPARTMENT OF EDUCATION

Subchapter II—Establishment of the Department

§ 3413. Office for Civil Rights

(a) * * *

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(c) AUTHORITY OF ASSISTANT SECRETARY.—In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of Title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this chapter, to obtain services as authorized by section 3109 of Title 5 at a rate not to exceed the equivalent daily rate payable for [grade GS–18 of the General Schedule under section 5332 of such title.] *level V of the Executive Schedule.*

* * * * * * *

Subchapter IV—Administrative Provisions

§ 3461. Officers and employees

(a) * * *

(b) APPLICABILITY OF GENERAL SCHEDULE; TERMINATION OF AUTHORITY; EXEMPTION FROM LIMITATIONS ON EXECUTIVE POSITIONS.—(1) At the request of the Secretary, the Director of the Office of Personnel Management shall under section 5108 of Title 5, provide for the establishment in each of the grade levels [GS–16, GS–17, and GS–18] *above GS–15* of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of Title 5, provide for the establishment in the Office created by section 3419 of this title of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions

and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of Title 5, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this chapter and, on the day preceding May 4, 1980, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding May 4, 1980.

* * * * * * *

§ 3462. Experts and consultants

The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of Title 5 and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for [GS-18 of the General Schedule under section 5332 of such title.] *level V of the Executive Schedule.*

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CHAPTER 49—ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL

§ 3602. Asbestos Hazard School Safety Task Force

(a) * * *

* * * * * * *

(c) COMPENSATION; TRAVEL EXPENSES.—(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for [grade GS-16] *above GS-15* of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of Title 5.

* * * * * * *

CHAPTER 55—EDUCATION OF THE DEAF

Subchapter III—Commission on Education of the Deaf

§ 4343. Administrative provisions

(a) PERSONNEL.—(1) The Commission may appoint such personnel, including a Staff Director, as the Commission deems necessary without regard to the provisions of Title 5 governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for [GS-18 of the General Schedule.] *level V of the Executive Schedul*

(2) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of Title 5.

§ 4344. Compensation of members

(a) * * *

(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for [GS-18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* for each day (including traveltime) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for individuals in the Government service employed intermittently.

CHAPTER 56—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

Subchapter I—American Indians and Alaska Natives

§ 4415. President of the Institute

(a) * * *

(b) COMPENSATION.—The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for [grade GS-18 of the General Schedule.] *level V of the Executive Schedule.*

* * * * * * *

CHAPTER 57—JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

§ 4512. President and Executive Secretary of Foundation

(a) * * *

(b)(1) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board.

(2) The Executive Secretary shall be the chief operating officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board or the President, as determined by the Board.

(3) The Executive Secretary shall be compensated at the rate specified for employees placed in [grade GS–18 of the General Schedule set forth in section 5332 of Title 5.] *level V of the Executive Schedule.*

§ 4513. Administrative provisions

(a) AUTHORITY.—The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out this chapter, without regard to the provisions of Title 5 governing appointments in the competitive service, but at General Schedule pay rates not in excess of the maximum rate for grade GS–15 of the General Schedule under section 5332 of Title 5;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate specified at the time of such service for [grade GS–18 in section 5332 of such title;] *level V of the Executive Schedule;*

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of Title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of Title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of Title 31;

(8) to rent office space in the District of Columbia or its environs;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America;

(10) to expend not more than 5 percent of its annual operating budget to pay the costs of fund raising activities, including public and private gatherings; and

(11) to make other necessary expenditures.

* * * * * * *

CHAPTER 59—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

§ 4709. Executive Secretary

(a) * * *

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at the rate specified for employees in [grade GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

* * * * * * *

§ 4710. Administrative provisions

(a) IN GENERAL.—In order to carry out this chapter, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate provided for employees in grade GS–15 of the General Schedule under section 5332 of Title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate specified at the time of such service for [grade GS–18 under section 5332 of such title;] *level V of the Executive Schedule;*

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and use the services of voluntary and noncompensated personnel and for travel expenses, including per diem, as authorized by section 5703 of Title 5;

(6) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurence of two-thirds of the members of the Board, without performance or other bonds and without regard to sections 5 of Title 41;

(7) rent office space in the District of Columbia; and

(8) make other necessary expenditures.

* * * * * * *

CHAPTER 62—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

Subchapter II—Technology and Training

§ 5093. Office of Training Technology Transfer

(a) OFFICE ESTABLISHED.—There is established in the Office of Educational Research and Improvement of the Department of Edu-

cation an Office of Training Technology Transfer. The Office shall be headed by a Director, who shall be appointed by the Secretary of Education. The Director shall be compensated at the rate provided for [GS-16] *above GS-15* of the General Schedule under section 5332 of Title 5.

* * * * * * *

TITLE 21, UNITED STATES CODE

CHAPTER 9—FEDERAL FOOD, DRUG, AND COSMETIC ACT

Subchapter V—Drugs and Devices

PART A—DRUGS AND DEVICES

§ 360c. classification of devices intended for human use

(a) * * *

(b) CLASSIFICATION PANELS.—(1) For purposes of—

(A) determining which devices intended for human use should be subject to the requirements of general controls, performance standards, or premarket approval, and

(B) providing notice to the manufacturers and importers of such devices to enable them to prepare for the application of such requirements to devices manufactured or imported by them.

the Secretary shall classify all such devices (other than devices classified by subsection (f) of this section) into the classes established by subsection (a) of this section. For the purpose of securing recommendations with respect to the classificataion of devices, the Secretary shall establish panels of experts or use panels of experts established before May 28, 1976, or both. Section 14 of the Federal Advisory Committee Act shall not apply to the duration of a panel established under this paragraph.

(2) The Secretary shall appoint to each established under paragraph (1) persons who are qualified by training and experience to evaluate the safety and effectiveness of the devices to be referred to the panel and who, to the extent feasible, possess skill in the use of, or experience in the development, manufacture, or utilization of, such devices. The Secretary shall make appointments to each panel so that each panel shall consist of members with adequately diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences; and other related professions. In addition, each panel shall include as nonvoting members a representative of consumer interests and a representative of interests of the device manufacturing industry. Scientific, trade, and consumer organizations shall be afforded an opportunity to nominate individuals for appointment to the panels. No individual who is in the regular full-time employ of the United States and engaged in the administration of this chapter may be a member of any panel. The Secretary shall designate one of the members of each panel to serve as chairman thereof.

(3) Panel members (other that officers or employees of the United States), while attending meetings or conferences of a panel or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not at rates exceeding the daily equivalent of the rate in effect for [grade GS–18 of the General Schedule,] *level V of the Executive Schedule* for each day so engaged, including traveltime; and while so serving away from their homes or regular places of business each member may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of Title 5, for persons in the Government service employed intermittently.

(4) The Secretary shall furnish each panel with adequate clerical and other necessary assistance.

§ 360d. Performance standards

(a) * * *

* * * * * * *

(g) ESTABLISHMENT OF STANDARDS; ADVISORY COMMITTEE.—(1)(A) After publication pursuant to subsection (c) of this section of a notice respecting a performance standard for a device, the Secretary shall either—

(i) publish, in the Federal Register in a notice of proposed rulemaking, a proposed performance standard for the device (I) developed by an offeror under such notice and accepted by the Secretary, (II) developed under subsection (c)(4) of this section, (III) accepted by the Secretary under subection (d) of this section, or (IV) developed by him under subsection (f) of this section, or

(ii) issue a notice in the Federal Register that the proceeding is terminated together with the reasons for such termination.

(B) If the Secretary issues under subparagraph (A)(ii) a notice of termination of proceeding to establish a performance standard for a device, he shall (unless such notice is issued because the device is a banned device under section 360f of this title) initiate a proceeding under section 360c(e) of this title to reclassify the device subject to the proceeding terminated by such notice.

(2) A notice of proposed rulemaking for the establishment of a performance standard for a device published under paragraph (1)(A)(i) shall set forth proposed findings with respect to the degree of the risk of illness or injury designed to be eliminated or reduced by the proposed standard and the benefit to the public from the device.

(3)(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee under paragraph (5), the Secretary shall (i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (2), or (ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination. If a notice of termination is published, the Secretary shall (unless such notice is issued because the device is a banned device under section 360f of this

title) initiate a proceeding under section 360c(e) of this title to reclassify the device subject to the proceeding terminated by such notice.

(B) A regulation establishing a peformance standard shall set forth the date of dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless (i) the Secretary determines that an earlier effective date is necessary for the protection of the public health and safety, or (ii) such standard has been established for a device which, effective upon the effective date of the standard, has been reclassified from class III to class II. Such date or dates shall be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of, domestic and international trade.

(4)(A) The Secretary, upon his own initiative or upon petition of an interested person may by regulation, promulgated in accordance with the requirements of paragraphs (2) and (3)(B) of this subsection, amend or revoke a performance standard.

(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if he determines, after affording all interested persons an opportunity for an informal hearing, that making it so effective is in the public interest. A proposed amendment of a performance standard made so effective under the preceding sentence may not prohibit, during the period in which it is so effective, the introduction or delivery for introduction into interstate commerce of a device which conforms to such standard with the change or changes provided by such proposed amendment.

(5)(A) The Secretary—

(i) may on his own initiative refer a proposed regulation for the establishment, amendment, or revocation of a performance standard, or

(ii) shall, upon the request of an interested person unless the Secetary finds the request to be without good cause or the request is made after the expiration of the period for submission of comments on such proposed regulation refer such proposed regulation,

to an advisory committee of experts, established pursuant to subparagraph (B), for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to an advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within sixty days of the referal of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

(B) The Secretary shall establish advisory committees (which may not be panels under section 360c of this title) to receive referrals under subparagraph (A). The Secretary shall appoint as members of any such advisory committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional background, except that the Secretary may not appoint to such a committee any individual who is in the regular full-time employ of the United States and engaged in the administration of this chapter. Each such committee shall include as nonvoting members a representative of consumer interests and a representative of interests of the device manufacturing industry. Members of an advisory committee who are not officers or employees of the United States, while attending conferences or meetings of their committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent of the rate in effect for [grade GS–18 of the General Schedule] *level V of the Executive Schedule*, for each day (including traveltime) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. The Secretary shall designate one of the members of each advisory committee with clerical and other assistance, and shall by regulation prescribe the procedures to be followed by each such committee in acting on referrals made under subparagraph (A).

§ 360e. Premarket approval

(a) * * *

* * * * * * *

(g) REVIEW.—(1) Upon petition for review of—

(A) an order under subsection (d) of this section approving or denying approval of an application or an order under subsection (e) of this section withdrawing approval of an application, or

(B) an order under subsection (f)(6)(A) of this section revoking an approved protocol, under subsection (f)(6)(B) of this section declaring that an approved protocol has not been completed, or under subsection (f)(7) of this section revoking the approval of a device,

the Secretary shall, unless he finds the petition to be without good cause or unless a petition for review of such order has been submitted under paragraph (2), hold a hearing, in accordance with section 554 of Title 5, on the order. The panel or panels which considered the application, protocol, or device subject to such order shall designate a member to appear and testify at any such hearing upon request of the Secretary, the petitioner, or the officer conducting the hearing, but this requirement does not preclude any other member of the panel or panels from appearing and testifying at any such hearing. Upon completion of such hearing and after considering the record established in such hearing, the Secretary shall issue an order either affirming the order subject to the hearing or reversing

such order and, as appropriate, approving or denying approval of the application, reinstating the application's approval, approving the protocol, or placing in effect a notice of completion.

(2)(A) Upon petition for review of—

(i) an order under subsection (d) of this section approving or denying approval of an application or an order under subsection (e) of this section withdrawing approval of an application, or

(ii) an order under subsection (f)(6)(A) of this section revoking an approved protocol, under subsection (f)(6)(B) of this section declaring that an approved protocol has not been completed, or under subsection (f)(7) of this section revoking the approval of a device,

the Secretary shall refer the application or protocol subject to the order and the basis for the order to an advisory committee of experts established pursuant to subparagraph (B) for a report and recommendation with respect to the order. The advisory committee shall, after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation, together with all underlying data and information and a statement of the reasons or basis for the recommendation. A copy of such report shall be promptly supplied by the Secretary to any person who petitioned for such referral to the advisory committee.

(B) The Secretary shall establish advisory committees (which may not be panels under section 360c of this title) to receive referrals under subparagraph (A). The Secretary shall appoint as members of any such advisory committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional backgrounds, except that the Secretary may not appoint to such a committee any individual who is in the regular full-time employ of the United States and engaged in the administration of this chapter. Members of an advisory committee (other than officers or employees of the United States), while attending conferences or meetings of their committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent for [grade GS–18 of the General Schedule] *level V of the Executive Schedule,* for each day (including traveltime) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. The Secretary shall designate the chairman of an advisory committee from its members. The Secretary shall furnish each advisory committee with clerical and other assistance, and shall by regulation prescribe the procedures to be followed by each such committee in acting on referrals made under subparagraph (A).

(C) The Secretary shall make public the report and recommendation made by an advisory committee with respect to an application and shall by order, stating the reasons therefor, either affirm the order referred to the advisory committee or reverse such order and, if appropriate, approve or deny approval of the application, rein-

state the application's approval, approve the protocol, or place in effect a notice of completion.

§ 360j. General provisions respecting control of devices intended for human use

(a) * * *

* * * * * * *

(f) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—(1)(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of a device conform to current good manufacturing practice, as prescribed in such regulations, to assure that the device will be safe and effective and otherwise in compliance with this chapter.

(B) Before the Secretary may promulgate any regulation under subparagraph (A) he shall—

(i) afford the advisory committee established under paragraph (3) an opportunity to submit recommendations to him with respect to the regulation proposed to be promulgated, and

(ii) afford opportunity for an oral hearing.

The Secretary shall provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A).

(2)(A) Any person subject to any requirement prescribed by regulations under paragraph (1) may petition the Secretary for an exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as he shall prescribe and shall—

(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the device will be safe and effective and othewise in compliance with this chapter,

(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, storage, and installation of the device in lieu of the methods, facilities, and controls prescribed by the requirement, and

(iii) contain such other information as the Secretary shall prescribe.

(B) The Secretary may refer to the advisory committee established under paragraph (3) any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within sixty days of the date of the petition's referral. Within sixty days after—

(i) the date the petition was submitted to the Secretary under subparagraph (A), or

(ii) if the petition was referred to an advisory committee, the expiration of the sixty-day period beginning on the date the petition was referred to the advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

(C) The Secretary may approve—

(i) a petition for an exemption for a device from a requirement if he determines that compliance with such requirement is not required to assure that the device will be safe and effective and otherwise in compliance with this chapter, and

(ii) a petition for a variance for a device from a requirement if he determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, storage, and installation of the device in lieu of the methods, controls and facilities prescribed by the requirement are sufficient to assure that the device will be safe and effective and otherwise in compliance with this chapter.

An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of the device to be granted the variance under the petition as may be necessary to assure that the device will be safe and effective and otherwise in compliance with this chapter.

(D) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

(3) The Secretary shall establish an advisory committee for the purpose of advising and making recommendations to him with respect to regulations proposed to be promulgated under paragraph (1)(A) and the approval or disapproval of petitions submitted under paragraph (2). The advisory committee shall be composed of nine members as follows:

(A) Three of the members shall be appointed from persons who are officers or employees of any State or local government or of the Federal Government.

(B) Two of the members shall be appointed from persons who are representative of interests of the device manufacturing industry; two of the members shall be appointed from persons who are representative of the interests of physicians and other health professionals; and two of the members shall be representative of the interests of the general public.

Members of the advisory committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent of the rate in effect for [grade GS–18 of the General Schedule,] *level V of the Executive Schedule,* for each day (including traveltime) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. The Secretary shall designate one of the members of the advisory committee to serve as its chairman. The Secretary shall furnish the advisory committee with clerical and other assistance. Section 14 of the Federal Advisory Committee Act shall not

apply with respect to the duration of the advisory committee established under this paragraph.

Subchapter VII—General Administrative Provisions

§ 376. Listing and certification of color additives for foods, drugs, devices, and cosmetics

(a) * * *

(b) LISTING OF COLORS; REGULATIONS; ISSUANCE, AMENDMENT OR REPEAL; REFERRAL TO ADVISORY COMMITTEE; REPORT AND RECOMMENDATIONS; APPOINTMENT AND COMPENSATION OF ADVISORY COMMITTEE.—(1) The Secretary shall, by regulation, provide for separately listing color additives for use in or on food, color additives for use in or on drugs, or devices, and color additives for use in or on cosmetics, if and to the extent that such additives are suitable and safe for any such use when employed in accordance with such regulations.

(2)(A) Such regulations may list any color additive for use generally in or on food, or in or on drugs or devices, or in or on cosmetics, if the Secretary finds that such additive is suitable and may safely be employed for such general use.

(B) If the data before the Secretary do not establish that the additive satisfies the requirements for listing such additive on the applicable list pursuant to subparagraph (A) of this paragraph, or if the proposal is for listing such additive for a more limited use or uses, such regulations may list such additive only for any more limited use or uses for which it is suitable and may safely be employed.

(3) Such regulations shall, to the extent deemed necessary by the Secretary to assure the safety of the use or uses for which a particular color additive is listed, prescribe the conditions under which such additive may be safely employed for such use or uses (including, but not limited to, specifications, hereafter in this section referred to as tolerance limitations, as to the maximum quantity or quantities which may be used or permitted to remain in or on the article or articles in or on which it is used; specifications as to the manner in which such additive may be added to or used in or on such article or articles; and directions or other labeling or packaging requirements for such additive).

(4) The Secretary shall not list a color additive under this section for a proposed use unless the data before him establish that such use, under the conditions of use specified in the regulations, will be safe: *Provided, however*, That a color additive shall be deemed to be suitable and safe for the purpose of listing under this subsection for use generally in or on food, while there is in effect a published finding of the Secretary declaring such substance exempt from the term "food additive" because of its being generally recognized by qualified experts as safe for its intended use, as provided in section 321(s) of this title.

(5)(A) In determining, for the purposes of this section, whether a proposed use of a color additive is safe, the Secretary shall consider, among other relevant factors—

(i) the probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food,

drugs or devices, or cosmetics because of the use of the additive;

(ii) the cumulative effect, if any, of such additive in the diet of man or animal, taking into account the same or any chemically or pharmacologically related substance or substances in such diet;

(iii) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives for the use or uses for which the additive is proposed to be listed, are generally recognized as appropriate for the use of animal experimentation data; and

(iv) the availability of any needed practicable methods of analysis for determining the identity and quantity of (I) the pure dye and all intermediates and other impurities contained in such color additives, (II) such additive in or on any article of food, drug or device, or cosmetic, and (III) any substance formed in or on such article because of the use of such additive.

(B) A color additive (i) shall be deemed unsafe, and shall not be listed, for any use which will or may result in ingestion of all or part of such additives, if the additive is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of additives for use in food, to induce cancer in man or animal, and (ii) shall be deemded unsafe, and shall not be listed, for any use which will not result in ingestion of any part of such additive, if, after tests which are appropriate for the evaluation of the safety of additives for such use, or after other relevant exposure of man or animal to such additives, it is found by the Secretary to induce cancer in man or animal: *Provided,* that clause (i) of this subparagraph (B) shall not apply with respect to the use of a color additive as an ingredient of feed for animals which are raised for food production, if the Secretary finds that, under the conditions of use and feeding specified in proposed labeling and reasonably certain to be followed in practice, such additive will not adversely affect the animals for which such feed is intended, and that no residue of the additive will be found (by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsection (d) of this section) in any edible portion of such animals after slaughter or in any food yielded by or derived from the living animal.

(C)(i) In any proceeding for the issuance, amendment, or repeal of a regulation listing a color additive, whether commenced by a proposal of the Secretary on his own initiative or by a proposal contained in a petition, the petitioner, or any other person who will be adversely affected by such proposal or by the Secretary's order issued in accordance with paragraph (1) of section 371(e) of this title if placed in effect, may request, within the time specified in this subparagraph, that the petition or order thereon, or the Secretary's proposal, be referred to an advisory committee for a report and recommendations with respect to any matter arising under subparagraph (B) of this paragraph, which is involved in such proposal or order and which requires the exercise of scientific judgment. Upon such request, or if the Secretary within such time

deems such a referral necessary, the Secretary shall forthwith appoint an advisory committee under subparagraph (D) of this paragraph and shall refer to it, together with all the data before him, such matter arising under subparagraph (B) for study thereof and for a report and recommendation on such matter. A person who has filed a petition or who has requested the referral of a matter to an advisory committee pursuant to this subparagraph (C), as well as representatives of the Department of Health, Education, and Welfare, shall have the right to consult with such advisory committee in connection with the matter referred to it. The request for referral under this subparagraph, or the Secretary's referral on his own initiative, may be made at any time before, or within thirty days after, publication of an order of the Secretary acting upon the petition or proposal.

(ii) Within sixty days after the date of such referral, or within an additional thirty days if the committee deems such additional time necessary, the committee shall, after independent study of the data furnished to it by the Secretary and other data before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or basis for the recommendations. A copy of the foregoing shall be promptly supplied by the Secretary to any person who has filed a petition, or who has requested such referral to the advisory committee. Within thirty days after such certification, and after giving due consideration to all data then before him, including such report, recommendations, underlying data, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order confirm or modify any order theretofore issued or, if no such order has been issued, shall by order act upon the petition or other proposal.

(iii) Where—

(I) by reason of subparagraph (B) of this paragraph, the Secretary has initiated a proposal to remove from listing a color additive previously listed pursuant to this section; and

(II) a request has been made for referral of such proposal to an advisory committee;

the Secretary may not act by order on such proposal until the advisory committee has made a report and recommendations to him under clause (ii) of this subparagraph and he has considered such recommendations, unless the Secretary finds that emergency conditions exist necessitating the issuance of an order notwithstanding this clause.

(D) The advisory committee referred to in subparagraph (C) of this paragraph shall be composed of experts selected by the National Academy of Sciences, qualified in the subject matter referred to the committee and of adequately diversified professional background, except that in the event of the inability or refusal of the National Academy of Sciences to act, the Secretary shall select the members of the committee. The size of the committee shall be determined by the Secretary. Members of any advisory committee established under this chapter, while attending conferences or meetings of their committees or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but at rates not exceeding the daily equiva-

lent of the rate specified at the time of such service for [grade GS-18 of the General Schedule,] *level V of the Executive Schedule,* including traveltime; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of Title 5 for persons in the Government service employed intermittently. The members shall not be subject to any other provisions of law regarding the appointment and compensation of employees of the United States. The Secretary shall furnish the committee with adequate clerical and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(6) The Secretary shall not list a color additive under this subsection for a proposed use if the data before him show that such proposed use would promote deception of the consumer in violation of this chapter or would otherwise result in misbranding or adulteration within the meaning of this chapter.

(7) If, in the judgment of the Secretary, a tolerance limitation is required in order to assure that a proposed use of a color additive will be safe, the Secretary—

(A) shall not list the additive for such use if he finds that the data before him do not establish that such additive, if used within a safe tolerance limitation, would achieve the intended physical or other technical effect; and

(B) shall not fix such tolerance limitation at a level higher than he finds to be reasonably required to accomplish the intended physical or other technical effect.

(8) If, having regard to the aggregate quantity of color additive likely to be consumed in the diet or to be applied to the human body, the Secretary finds that the data before him fail to show that it would be safe and otherwise permissible to list a color additive (or pharmacologically related color additives) for all the uses proposed therefor and at the levels of concentration proposed, the Secretary shall, in determing for which use or uses such additive (or such related additives) shall be or remain listed, or how the aggregate allowable safe tolerance for such additive or additives shall be allocated by him among the uses under consideration, take into account, among other relevant factors (and subject to the paramount criterion of safety), (A) the relative marketability of the articles involved as affected by the proposed uses of the color additive (or of such related additives) in or on such articles, and the relative dependence of the industries concerned on such uses; (B) the relative aggregate amounts of such color additive which he estimates would be consumed in the diet or applied to the human body by reason of the various uses and levels of concentration proposed; and (C) the availability, if any, of other color additives suitable and safe for one or more of the uses proposed.

CHAPTER 20—NATIONAL DRUG CONTROL PROGRAM

§ 1502. Appointment and duties of Director, Deputy Directors, and Associate Director

(a) * * *

* * * * * * *

(d) POWERS OF DIRECTOR.—In carrying out the responsibilities established under subsection (b) of this section, the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees as may be necessary to carry out the functions of the Office of National Drug Control Policy under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department of agency, in order to implement United States drug control policy;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of Title 5, relating to appointments to the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable for [GS–18 of the General Schedule under section 5332 of Title 5;] *level V of the Executive Schedule;*

(5) accept and use donations of property from Federal, State, and local government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch; and

(7) monitor implementation of the National Drug Control Program, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

TITLE 22, UNITED STATES CODE

CHAPTER 18—UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS

Subchapter VI—Advisory Commissions to Formulate Policies

§ 1469. United States Advisory Commission on Public Diplomacy

(a) * * *

* * * * * * *

(c) STAFF DIRECTOR AND STAFF PERSONNEL: APPOINTMENT; TEMPORARY AND INTERMITTENT PERSONNEL; COMPENSATION.—The Commission shall have a staff director who shall be appointed by the Chairman of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may—

(1) appoint such additional personnel for the staff of the Commission as the Chairman deems necessary; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of Title 5, but at rates for individuals not to exceed the daily equivalent of the

annual rate of basic pay payable for [grade GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

CHAPTER 21—SETTLEMENT OF INTERNATIONAL CLAIMS

Subchapter I—General Provisions

§ 1622d. Appointment and compensation of officers and employees of Foreign Claims Settlement Commission of the United States; allowances and benefits; utilization of other Federal facilities

The Commission is authorized, in accordance with civil service laws and in accordance with Title 5, to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. The Commission is authorized to employ experts and consultants in accordance with section 3109 of Title 5, without compensation or at rates of compensation not in excess of the maximum daily rate prescribed for [GS–18 under section 5332 of Title 5.] *level V of the Executive Schedule.* Notwithstanding any other provision of law, the Commission is further authorized to employ nationals of other countries who may possess special knowledge, languages, or other expertise necessary to assist the Commission. The Commission is authorized to pay expenses of packing, shipping, and storing personal effects of personnel of the Commission assigned abroad, and to pay allowances and benefits similar to those provided by Title IX of the Foreign Service Act of 1946, as amended. The Commission is authorized, with the consent of the head of any other department or agency of the Federal Government, to utilize the facilities and services of such department or agency in carrying out the functions of the Commission. Officers and employees of any department and agency of the Federal Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission shall reimburse such department and agency for the pay of such officers or employees.

CHAPTER 35—ARMS CONTROL AND DISARMAMENT

Subchapter IV—Additional General Provisions

§ 2581. General authority of Director.

(a) * * *

(b) EMPLOYMENT OF PERSONNEL.—Appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of Title 5 governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that during the 2-year period beginning on August 17, 1977, the Director may, to the extent he deems necessary to the discharge of his responsibilities, appoint and fix the compensation of officers and employees for the Agency without regard to such provisions, subject to the following requirements:

(1) an officer or employee whose compensation is fixed under the foregoing exception may not be paid a salary at a rate in excess of the rate payable under such chapter 51 and such subchapter III for positions of equivalent difficulty or responsibility except for (A) those officers and employees whose compensation is fixed by law, and (B) scientific and technical personnel who may be compensated at a rate not to exceed the rate in effect for [grade GS-18 of the General Schedule;] *level V of the Executive Schedule;*

—(2) the Director shall make adequate provision for administrative review of any determination to suspend or dismiss any officer or employee appointed under the foregoing exception; and

(3) an officer or employee of the Agency serving under a career or career conditional appointment on August 17, 1977, may not be involuntarily deprived, while employed by the Agency, of any rights normally granted such officer or employee in the competitive service;

* * * * * * *

CHAPTER 38—DEPARTMENT OF STATE

§ 2669. Printing and binding outside continental United States; settlement and payment of claims by foreign governments; employment of individuals or organizations; official functions and courtesies; purchase of uniforms; payment of tort claims

(a) * * *

* * * * * * *

(g) obtain services as authorized by section 3109 of Title 5 at a rate not to exceed the maximum rate payable for [GS-18 under section 5332 of such Title 5;] *level V of the Executive Schedule;* and

* * * * * * *

CHAPTER 43—INTERNATIONAL BROADCASTING

§ 2873. Functions of Board

(a) The Board is authorized:

(1) to make grants to RFE/RL, Incorporated, in order to carry out the purposes set forth in section 2871 of this title;

(2) to review and evaluate the mission and operation of RFE/RL, Incorporated, and to assess the quality, effectiveness and professional integrity of its broadcasting within the context of the broad foreign policy objectives of the United States;

(3) to encourage the most efficient utilization of available resources by RFE/RL, Incorporated, and to undertake, or request that RFE/RL, Incorporated, undertake, such studies as may be necessary to identify areas in which the operations of RFE/RL, Incorporated, may be made more efficient and economical;

(4) to develop and apply such financial procedures, and to make such audits of RFE/RL, Incorporated, as the Board may

determine are necessary, to assure that grants are applied in accordance with the purposes for which such grants are made;

(5) to develop and apply such evaluative procedures as the Board may determine are necessary to assure that grants are applied in a manner not inconsistent with the broad foreign policy objectives of the United States Government;

(6) to appoint such staff personnel as may be necessary, subject to the provisions of Title 5 governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7)(A) to procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of Title 5 at rates not to exceed the daily equivalent of the rate provided for [GS–18;] *level V of the Executive Schedule;* and

(B) to allow those providing such services, while away from their homes or their regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently, while so employed;

(8) to make available for its own use or for the use of RFE/RL, Incorporated, for official reception and representational expenses not to exceed $65,000 of the funds made available by carry out this chapter each fiscal year;

(9) to report annually to the President and the Congress on or before the 31st day of January, summarizing the activities of the Board during the year ending the preceding September 30, and reviewing and evaluating the operation of RFE/RL, Incorporated, during such year; and

(10) to prescribe such regulations as the Board deems necessary to govern the manner in which its functions shall be carried out.

CHAPTER 44—JAPAN-UNITED STATES FRIENDSHIP

§ 2903. Japan-United States Friendship Commission

(a) * * *

(b) COMPENSATION AND TRAVEL EXPENSES.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding the rate specified at the time of such service for [grade GS–18 in section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

§ 2905. Administrative powers of Commission

In order to carry out its functions under this chapter, the Commission is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of this chapter; and to use, sell, or otherwise dispose of such property (including transfer to the Fund) for the purpose of carrying out the purposes of this chapter, and any such donation shall be exempt from any Federal income, State, or gift tax;

(3) in the discretion of the Commission, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Commission with a condition or restriction, including a condition that the Commission use other funds of the Commission for the purposes of the gift, and any such donation shall be exempt from any Federal income, State, or gift tax;

(4) direct the Secretary of the Treasury to make expenditure of the income of the Fund, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund to carry out the purposes of this chapter, including the payment of Commission expenses if needed, except that any amounts expended from amounts appropriated to the Fund under section 2902(e)(1) of this title shall be expended in Japan;

(5) appoint an Executive Director, without regard to the provisions of Title 5 governing appointments in the competitive service, who shall be compensated at the rate provided for [a GS–18 of the General Schedule of such title;] *level V of the Executive Schedule;*

(6) obtain the services of experts and consultants in accordance with the provisions of section 3109 of Title 5, at rates for individuals not to exceed the rate specified at the time of such service for [grade GS–18 in section 5332 of Title 5;] *level V of the Executive Schedule;*

(7) accept and utilize the services of voluntary and noncompensated personnel and reimbursed them for travel expenses, including per diem, as authorized by section 5703 of Title 5;

(8) enter into contracts, grants, or other arrangements, or modifications thereof;

(9) make advances, progress, and other payments which the Commission deems necessary under this chapter;

(10) obtain such administrative support services and personnel as the Commission deems necessary and appropriate to its needs; and

(11) transmit its official mail as penalty mail in the same manner and uypon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of Title 39.

CHAPTER 51—PANAMA CANAL

Subchapter I—Administration and Regulations

PART 1—PANAMA CANAL COMMISSION

§ 3612. Supervisory Board

(a) * * *

(b) MEMBERSHIP OF BOARD; APPOINTING AUTHORITY; COMPENSATION AND TRAVEL EXPENSES; COMPENSATION FOR NON-GOVERNMENT BOARD MEMBERS.—The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 3617 of this title, except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business.

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§ 3614. Deputy Administrator and Chief Engineer

(a) * * *

(b) COMPENSATION.—The Deputy Administrator and the Chief Engineer shall each be paid compensation at a rate of pay established by the President which does not exceed the rate of basic pay in effect for [grade GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

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CHAPTER 52—FOREIGN SERVICE

Subchapter X—Labor-Management Relations

§ 4110. Foreign Service Impasse Disputes Panel

(a) * * *

(b) COMPENSATION; TRAVEL EXPENSES.—Panel members referred to in subsection (a)(3) and (4) of this section shall receive compensation for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for [grade GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* except that the member who

is also a member of the Federal Service Impasses Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4) of Title 5. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of Title 5.

Subchapter XI—Grievances

§ 4135. Foreign Service Grievance Board

(a) * * *

* * * * * * *

(c) COMPENSATION.—Members of the Board who are not employees of the Government shall be paid for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for [grade GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

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CHAPTER 56—UNITED STATES INSTITUTE OF PEACE

§ 4605. Board of directors

(a) * * *

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(i) COMPENSATION.—A director appointed by the President under subsection (b)(5) of this section shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* for each day during which the director is engaged in the performance of duties as a member of the Board.

* * * * * * *

CHAPTER 58—DIPLOMATIC SECURITY

Subchapter III—Performance and Accountability

§ 4832. Accountability Review Board

(a) MEMBERSHIP.—A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for [level GS–18 of the General Schedule] *level V of the Executive Schedule* for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

TITLE 23, UNITED STATES CODE

CHAPTER 1—FEDERAL-AID HIGHWAYS

§ 131. Control of outdoor advertising

(a) * * *

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(o) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to provisions of title 5, United States Code [Title 5, Government Organization and Employees] covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall the staff director or any other employee receive as compensation an amount in excess of the maximum rate for [GS-18 of the General Schedule under section 5332 of title 5, United States Code [section 5332 of Title 5].] *level V of the Executive Schedule.* In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code [section 3109 of Title 5], but at rates not to exceed $100 per diem for individuals.

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TITLE 25, UNITED STATES CODE

CHAPTER 14—MISCELLANEOUS

Subchapter XXII—Navajo and Hopi Tribes: Settlement of Rights and Interests

§ 640d-11. Office of Navajo and Hopi Indian Relocation

(a) * * *

(b) APPOINTMENT; TERM OF OFFICE; COMPENSATION.—(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(2) The term of office of the Commissioner shall by 2 years. An individual may be appointed Commissioner for more than one term.

(3) The Commissioner shall be a full time employee of the United States and shall be paid at the rate [of GS-18 of the General Schedule under section 5332 of Title 5.] *at level V of the Executive Schedule.*

(c) CONTINUATION OF POWERS, DUTIES, FUNDING, ETC. OF NAVAJO AND HOPI INDIAN RELOCATION COMMISSION; TRANSFER OF RELATED POWERS, DUTIES, AND FUNDS OF BUREAU OF INDIAN AFFAIRS.—(1)(A)

Except as otherwise provided by the Navajo and Hopi Indian Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the Navajo and Hopi Indian Relocation Commission had before November 16, 1988.

(B) All funds appropriated to the Navajo and Hopi Indian Relocation Commission before the date on which the first Commissioner of Navajo and Hopi Indian Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Office of Navajo and Hopi Indian Relocation on such date and shall remain available without fiscal year limitation.

(2) There are hereby transferred to the Commissioner, on January 31, 1989—

(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

(B) all funds appropriated for activities relating to such relocation pursuant to Public Law 99-190 (99 Stat. at 1236): *Provided,* That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs (B)[1]: *Provided further,* That for administrative purposes such funds shall be maintained in a separate account.

(d) POWERS OF COMMISSIONER; APPOINTMENT AND COMPENSATION OF STAFF, PERSONNEL, ETC.; TEMPORARY AND INTERMITTENT SERVICES.—(1) The Commissioner shall have the power to—

(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of Title 5, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for [GS-18 of the General Schedule under section 5332 of such title;] *level V of the Executive Schedule;* and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5, but at rates not to exceed $200 a day for individuals.

(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purpose by appropriations Acts.

(3) There are authorized to be appropriated for each fiscal year $100,000 to fund contracts described in paragraph (2).

CHAPTER 29—INDIAN GAMING REGULATION

§ 2707. Commission staffing

(a) GENERAL COUNSEL.—The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for [GS-18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

(b) STAFF.—The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of Title 5, governing appointments in the competitive.

(c) TEMPORARY SERVICES.—The Chairman may procure temporary and intermittent services under section 3109(b) of Title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for [GS–18 of the General Schedule.] *level V of the Executive Schedule.*

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TITLE 28, UNITED STATES CODE

CHAPTER 39—UNITED STATES TRUSTEES

§ 586. Duties, supervision by Attorney General

(a) * * *

* * * * * * *

(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an indiviudal under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11, shall fix—

(A) a maximum annual compensation for such individual, not to exceed the annual rate of basic pay in effect for [step 1 of grade GS–16] *above GS–15* of the General Schedule prescribed under section 5332 of title 5; and

(B) a percentage fee not to exceed—

(i) in the case of a debtor who is not a family farmer, ten percent; or

(ii) in the case of a debtor who is a family farmer, the sum of—

(I) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed $450,000; and

(II) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds $450,000;

based on such maximum annual compensation and the actual necessary expenses incurred by such individual as standing trustee.

(2) Such individual shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall deposit in the United States Trustee System Fund—

(A) any amount by which the actual compensation of such individual exceeds 5 per centum upon all payments received under plans in cases under chapter 12 or 13 or title 11 for which such individual serves as standing trustee; and

(B) any amount by which the percentage for all such cases exceeds—

(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of paragraph (1); plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases. Subject to the approval of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilizied to pay actual, necessary expenses without regard to the percentage limitation contained in subparagraph (d)(1)(B) of this section.

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CHAPTER 40—INDEPENDENT COUNSEL

§ 594. Authority and duties of an independent counsel

(a) * * *

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(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, such independent counsel may appoint, fix the compensation, and assigns the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for [GS–18 of the General Schedule under section 5332 of the title 5] *level V of the Executive Schedule.*

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CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

§ 602. Employees

[(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates.]

(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the Administrative Office of the United States Courts Personnel Act of 1990.

(b) Notwithstanding any other law, the Director may appoint certified interpreters in accordance with section [604(a)(15)(B)] *604(a)(16)(B)* of this title without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, but the compensation of any person appointed under this subsection shall not exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

§ 603. Salaries

The salary of the Director shall be the same as the salary of a district judge. *Notwithstanding any other provision of law, the Director shall not be an employee for purposes of subchapter I of chapter 63 of title 5, United States Code. The salary of the Deputy Director shall be 92 percent of the salary of the Director.* The salaries [of the Deputy Director and] of six additional positions shall be fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.

§ 604. Duties of Director generally

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

(1) Supervise all administrative matters relating to the offices of clerks and other clerical and administrative personnel of the courts;

(2) Examine the state of the dockets of the courts; secure information as to the courts, needs of assistance; prepare and transmit semiannually to the chief judges of the circuits, statistical data and reports as to the business of the courts;

(3) Submit to the annual meeting of the Judicial Conference of the United States, at least two weeks prior thereto, a report of the activities of the Administrative Office and the state of the business of the courts, together with the statistical data submitted to the chief judges of the circuits under paragraph (a)(2) of this section, and the Director's recommendations, which report, data and recommendations shall be public documents.

(4) Submit to Congress and the Attorney General copies of the report, data and recommendations required by paragraph (a)(3) of this section;

(5) Fix the compensation of clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants, and other employees of the courts whose compensation is not otherwise fixed by law;

(6) Determine and pay necessary office expenses of courts, judges, and those court officials whose expenses are by law allowable, and the lawful fees of United States Commissioners;

(7) Regulate and pay annuities to widows and surviving dependent children of justices and judges of the United States, bankruptcy judges, United States magistrates, Directors of the Federal Judicial Center, and Directors of the Administrative Office, and necessary travel and subsistence expenses incurred by judges, court officers and employees, and officers and employees of the Administrative Office, and the Federal Judicial Center, while absent from their official stations on official business, without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5: *Provided,* That the reimbursement of subsist-

ence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;

(8) Disburse, directly or through the several United States marshals, money appropriated for the maintenance and operation of the courts;

(9) Establish pretrial services pursuant to section 3152 of title 18, United States Code;

(10)(A) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, supplies, and other personal property for the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)); (B) provided or make available readily to each court appropriate equipment for the interpretation of proceedings in accordance with section 1828 of this title; and (C) enter into and perform contracts and other transactions upon such terms as the Director may deem appropriate as may be necessary to the conduct of the work of the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)), and contracts for nonpersonal services providing pretrial services, for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title may be awarded without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5);

(11) Audit vouchers and accounts of the courts, the Federal Judicial Center, the officers providing pretrial services, and their clerical and administrative personnel;

(12) Provide accommodations for the courts, the Federal Judicial Center, the offices providing pretrial services and their clerical and administrative personnel;

(13) Lay before Congress, annually, statistical tables that will accurately reflect the business transacted by the several bankruptcy courts, and all other pertinent data relating to such courts;

(14) Pursuant to section 1827 of this title, establish a program for the certification and utilization of interpreters in courts of the United States;

(15) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;

(16)(A) In those districts where the Director considers it advisable based on the need for interpreters, authorize the full-time or part-time employment by the court of certified interpreters; (B) where the Director considers it advisable based on the need for interpreters, appoint certified interpreters on a full-time or part-time basis, for services in various courts when he determines that such appointments will result in the economic provisions of interpretation services; and (C) pay out of moneys appropriated for the judiciary interpreters' salaries, fees, and expenses, and other costs which may accrue in accordance with the provisions of sections 1827 and 1828 of this title;

(17) In the Director's discretion, (A) accept and utilize voluntary and uncompensated (gratuitous) services, including serv-

ices as authorized by section 3102(b) of title 5, United States Code; and (B) accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the judicial branch of Government, but gifts or bequests of money shall be covered into the Treasury;

(18) Establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments;

[(19)] Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

(19) Periodically compile—

(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

(B) the rules which are prescribed under section 372(c)(11) of this title; and

(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;

(20) Perform such other duties as may be assigned to him by the Supreme Court of the Judicial Conference of the United States.

(21) Establish a program of incentive awards for employees of the judicial branch of the United States Government, other than any judge who is entitled to hold office during good behavior;

(22) Receive and expend, either directly or by transfer to the United Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress/egress control, inspection of packages, directed security patrols, and other similar activities; *and*

(23) Regulate and pay annuities to bankruptcy judges and United States magistrates in accordance with section 377 of this title and paragraphs (1)(B) and (3) of section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988[;].

TITLE 29, UNITED STATES CODE

CHAPTER 7—LABOR-MANAGEMENT RELATIONS

Subchapter III—Conciliation of Labor Disputes; National Emergencies

§ 183. Conciliation of labor disputes in health care industry

(a) * * *

(b)(1) COMPENSATION OF MEMBERS OF BOARDS OF INQUIRY.—Members of any board established under this section who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other

necessary expenses incurred by them in carrying out its duties under this section.

(2) Members of any board established under this section who are not subject to paragraph (1) shall receive compensation at a rate prescribed by the Director but not to exceed the daily rate prescribed for [GS-18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* including travel for each day they are engaged in the performance of their duties under this section and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

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CHAPTER 15—OCCUPATIONAL SAFETY AND HEALTH

§ 656. Administration

(a) * * *

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(c) USE OF SERVICES, FACILITIES, AND PERSONNEL OF FEDERAL, STATE, AND LOCAL AGENCIES; REIMBURSEMENT; EMPLOYMENT OF EXPERTS AND CONSULTANTS OR ORGANIZATIONS; RENEWAL OF CONTRACTS; COMPENSATION; TRAVEL EXPENSES.—In carrying out his responsibilities under this chapter, the Secretary is authorized to—

(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency, with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of Title 5, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for [grade GS-18 under section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently, while so employed.

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§ 661. Occupational Safety and Health Review Commission

(a) * * *

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(k) APPOINTMENT AND COMPENSATION OF ADMINISTRATIVE LAW JUDGES.—Except as otherwise provided in this chapter, the administrative law judges shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5108 of Title 5. Each administrative

law judge shall receive compensation at a rate not less than that prescribed for [GS-16] *above GS-15* under section 5332 of Title 5.

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CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES

§ 717. Review of applications

Applications for grants or contracts in excess of $60,000 in the aggregate authorized to be funded under this chapter, other than grants or contracts for evaluations, dissemination, or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the rate provided for [grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.] *level V of the Executive Schedule.*

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Subchapter II—Research and Training

§ 761a. National Institute on Disability and Rehabilitation Research

(a) * * *

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(c) APPOINTMENT OF DIRECTOR: DEPUTY DIRECTOR; EMPLOYMENT OF TECHNICAL AND PROFESSIONAL PERSONNEL; CONSULTANTS.—(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be an individual with substantial experience in rehabilitation and in research administration. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of Title 5. In carrying out any of his functions under this section, the Director shall be guided by general policies of the National Council on the Handicapped established in subchapter IV of this chapter. The Director shall not delegate any of his functions to any officer who is not directly responsible to him.

(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the "Deputy Director") who shall be appointed by the Secretary. The Deputy Director shall be compensated at the rate provided for [grade GS-17] *above GS-15* of the General Schedule under section 5332 of Title 5, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed [in grade GS-17] *above GS-15* of the General Schedule under section 5108 of Title 5.

(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of Title 5, governing appointment in the competitive service, and may compensate, without regard to the provisions of

chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director deems necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

(4) The Director may obtain the services of consultants, without regard to the provisions of Title 5 governing appointments in the competitive service.

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SUBCHAPTER III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—CONSTRUCTION AND TRAINING PROGRAMS

§ 774. Training

(a) * * *

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(e) TECHNICAL ASSISTANCE TO STATE REHABILITATION AGENCIES AND REHABILITATION FACILITIES; EXPERTS AND CONSULTANTS; COMPENSATION AND TRAVEL EXPENSES.—(1) The Commissioner is authorized to provide technical assistance to State rehabilitation agencies and rehabilitation facilities, directly or through contracts with State vocational rehabilitation agencies or nonprofit organizations.

(2) An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate subject to approval of the Commissioner which shall not exceed the daily rate payable for [grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.] *level V of the Executive Schedule.* Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5, United States Code.

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Subchapter IV—National Council on the Handicapped

§ 782. Compensation of National Council members

(a) RATE.—Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of basic pay payable for [grade GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

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Subchapter IV—National Council on the Handicapped

§ 783. National Council staff

(a) * * *

(b) TEMPORARY OR INTERMITTENT SERVICES; VOLUNTARY AND UNCOMPENSATED SERVICES; GIFTS, ETC.; CONTRACTS AND AGREEMENTS; OFFICIAL REPRESENTATION AND RECEPTION; TRANSFER OF FUNDS.—(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of Title 5 (but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for [grade GS–18 of the General Schedule under section 5332 of Title 5).] *level V of the Executive Schedule.*

(2) The National Council may—

(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of Title 31;

(B) accept, in the name of the Council, employ and dispose of in furtherance of this chapter, any money, or property, real or personal, or mixed, tangible or nontangible, received by gift, device, bequest, or othewise; and

(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

(4) From the amount available to the Office of Special Education and Rehabilitative Services, Department of Education, $500,000 in fiscal year 1984 shall be transferred and made available to the National Council.

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§ 792. Architectural and Transportation Barriers Compliance Board

(a) ESTABLISHMENT; MEMBERSHIP; CHAIRPERSON; VICE-CHAIRPERSON; TERM OF OFFICE; TERMINATION OF MEMBERSHIP; REAPPOINTMENT; COMPENSATION AND TRAVEL EXPENSES; BYLAWS; QUORUM REQUIREMENTS.—(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed as follows:

(A) Twelve members shall be appointed by the President from among members of the general public of whom six shall be individuals with handicaps.

(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

(i) Department of Health and Human Services.

(ii) Department of Transportation.

(iii) Department of Housing and Urban Development.

(iv) Department of Labor.

(v) Department of the Interior.
(vi) Department of Defense.
(vii) Department of Justice.
(viii) General Services Administration.
(ix) Veterans' Administration.
(x) United States Postal Service.
(xi) Department of Education.

The Chairperson and vice-chairperson of the Board shall be elected by majority vote of the members of the Board to serve for terms of one year. When the chairperson is a member of the general public, the vice-chairperson shall be a Federal official; and when the chairperson is a Federal official, the vice-chairperson shall be a member of the general public. Upon the expiration of the term as chairperson of a member who is a Federal offical, the subsequent chairperson shall be a member of the general public; and vice versa.

(2)(A) The term of office of each appointed member of the Board shall be three years. Each year, the terms of office of four appointed members of the board shall expire.

(B) A member whose term has expired may continue to serve until a successor has been appointed.

(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.

(3) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date the member becomes such an employee.

(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

(5)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for [GS–18 under section 5332 of Title 5,] *level V of the Executive Schedule,* including travel time, for each day they are engaged in the performances of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(6)(A) The Board shall establish such bylaws and other rules as may be appropriate to enable the Board to carry out its functions under this chapter.

(B) The bylaws shall include quorum requirements. The quorum requirements shall provide that (i) a proxy may not be counted for purposes of establishing a quorum, and (ii) not less than half the members required for a quorum shall be members of the general public appointed under paragraph (1)(A).

(f) TECHNICAL, ADMINISTRATIVE, OR OTHER ASSISTANCE; APPOINTMENT, COMPENSATION, AND TRAVEL EXPENSES OF ADVISORY AND TECHNICAL EXPERTS AND CONSULTANTS.—The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this subsection shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily pay rate for a person employed [as a GS–18 under section 5332 of Title 5,] *at level V of the Executive Schedule,* including travel time, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of [such Title 5] *title 5, United States Code* for persons in the Government service employed intermittently.

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Subchapter V—Miscellaneous Provisions

§ 794b. Removal of architectural, transportation, or communication barriers

(a) * * *

(b) COMPENSATION OF EXPERTS OR CONSULTANTS.—Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for [grade GS–18 of the General Schedule, under section 5332 of Title 5,] *level V of the Executive Schedule,* including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

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CHAPTER 18—EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM

Subchapter I—Protection of Employee Benefit Rights

Subtitle B—Regulatory Provisions

PART 5—ADMINISTRATION AND ENFORCEMENT

§ 1142. Advisory Council on Employee Welfare and Pension Benefit Plans

(a) * * *

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(d) COMPENSATION.—(1) Members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for [grade GS-18 of the General Schedule] *level V of the Executive Schedule* for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council.

(2) While away from their homes or regular places of business in the performance of services for Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of Title 5.

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Subchapter III—Plan Termination Insurance

Subtitle A—Pension Benefit Guaranty Corporation

§ 1302. Pension Benefit Guaranty Corporation

(a) * * *

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(h) ADVISORY COMMITTEE TO CORPORATION.—(1) There is established an advisory committee to the corporation, for the purpose of advising the corporation as to its policies and procedures relating to (A) the appointment of trustees in termination proceedings, (B) investment of moneys, (C) whether plans being terminated should be liquidated immediately or continued in operation under a trustee, and (D) such other issues as the corporation may request from time to time. The advisory committee may also recommend persons for appointment as trustees in termination proceedings, make recommendations with respect to the investment of moneys in the funds, and advise the corporation as to whether a plan subject to being terminated should be liquidated immediately or continued in operation under a trustee.

(2) The advisory committee consists of seven members appointed, from among individuals recommended by the board of directors, by

the President. Of the seven members, two shall represent the interests of employee organizations, two shall represent the interests of employers who maintain pension plans, and three shall represent the interests of the general public. The President shall designate one member as chairman at the time of the appointment of that member.

(3) Members shall serve for terms of 3 years each, except that, of the members first appointed, one of the members representing the interests of employee organizations, one of the members representing the interests of employers, and one of the members representing the interests of the general public shall be appointed for terms of 2 years each, one of the members representing the interests of the general public shall be appointed for a term of 1 year, and the other members shall be appointed to full 3-year terms. The advisory committee shall meet at least six times each year and at such other times as may be determined by the chairman or requested by any three members of the advisory committee.

(4) Members shall be chosen on the basis of their experience with employee organizations, with employers who maintain pension plans, with the administration of pension plans, or otherwise on account of outstanding demonstrated ability in related fields. Of the members serving on the advisory committee at any time, no more than four shall be affiliated with the same political party.

(5) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the office of a member of the advisory committee shall be filled in the manner in which that office was originally filled.

(6) The advisory committee shall appoint and fix the compensation of such employees as it determines necessary to discharge its duties, including experts and consultants in accordance with the provisions of section 3109 of Title 5. The corporation shall furnish to the advisory committee such professional, secretarial, and other services as the committee may request.

(7) Members of the advisory committee shall, for each day (including traveltime) during which they are attending meetings or conferences of the committee or otherwise engaged in the business of the committee, be
compensated at a rate fixed by the corporation which is not in excess of the daily equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule,] *level V of the Executive Schedule,* and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5.

(8) The Federal Advisory Committee Act does not apply to the advisory committee established by this subsection.

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CHAPTER 24—TECHNOLOGY RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

Subchapter I—Grants to States

§ 2215. Administrative provisions

(a) REVIEW OF PARTICIPATING STATES—

(1) IN GENERAL.—The Secretary shall establish a system to assess the extent to which States that receive grants pursuant to this subchapter are making significant progress in achieving the purposes of this subchapter.

(2) ONSITE VISITS.—(A) The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers from other participating States.

(B)(i) Members of any onsite monitoring team who are officers of full-time employees of the United States shall serve without compensation in addition to that received for their services as officers of employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of Title 5, individuals in the Government service traveling on official business.

(ii) Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for [GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule* for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, for individuals in the Government service employed intermittently.

(3) MINIMUM REQUIREMENTS.—At a minimum the visits shall allow the Secretary to determine the extent to which the State making significant progress in developing a statewide program of technology-related assistance consistent with the purposes described in section 2201(b)(1) of this title.

(4) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

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TITLE 30, UNITED STATES CODE

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CHAPTER 22—MINE SAFETY AND HEALTH

Subchapter I—General

§ 812. Advisory committees

(a) * * *

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(d) COMPENSATION; TRAVEL AND SUBSISTENCE EXPENSES.—Advisory committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the appropriate Secretary but not in excess of the maximum rate of pay for [grade GS–18 as provided in the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* and shall, notwithstanding the limitations of sections 5703 and 5704 of Title 5, be fully reimbursed for travel, subsistence, and related expenses.

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Subchapter IV—Black Lung Benefits

PART C—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1973

§ 938. Miners suffering from pneumoconiosis; discrimination prohibited

(a) * * *

(b) DETERMINATION BY SECRETARY; PROCEDURE.—Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of Title 5. Each administrative law judge presiding under this section and under the provisions of subchapters I, II and III of this chapter shall receive compensation at a rate not less than that prescribed for [GS–16] *levels above GS–15* under section 5332 of Title 5. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall

issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

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CHAPTER 25—SURFACE MINING CONTROL AND RECLAMATION

Subchapter III—State Mining and Mineral Resources Research Institutes

§ 1229. Committee on Mining and Mineral Resources Research

(a) * * *

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(c) COMPENSATION, TRAVEL, SUBSISTENCE AND RELATED EXPENSES.—Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing Committee business, paid at a rate fixed by the Secretary but not excess of the daily equivalent of the maximum rate of pay for [grade GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule*, and shall be fully reimbursed for travel, subsistence, and related expenses.

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Subchapter VIII—University Coal Research Laboratories

§ 1315. Advisory Council on Coal Research

(a) * * *

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(d) COMPENSATION AND TRAVEL EXPENSES.—(1) Members of the Council who are not regular officers or employees of the United States Government shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Secretary of Energy but not exceeding the daily rate prescribed for [GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(2) Members of the Council who are officers or employees of the Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties on the Council.

TITLE 31, UNITED STATES CODE

CHAPTER 3—DEPARTMENT OF THE TREASURY

Subchapter II—Administrative

* * * * * * *

§ 332. Miscellaneous administrative authority

The Secretary of the Treasury may to the extent provided in advance by appropriation Acts--

(1) contract for the temporary or intermittent services of experts or consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the per diem equivalent to the rate for [GS-18;] *level V of the Executive Schedule;*

(2) contract with and reimburse the Department of State for health and medical services for employees of the Department of the Treasury and their dependents serving in foreign countries;

(3) provide for official functions, and reception and representation activities;

(4) maintain, repair, and clean uniforms furnished by the Department of the Treasury to uniformed employees;

(5) provide athletic and related activities for students at the Federal Law Enforcement Training Center, Glynco, Georgia;

(6) install and maintain fencing, lighting, guard booths, and other facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned by or under jurisdiction and control of the United States Government and, subsequently, to remove the facilities therefrom;

(7) enter into reciprocal assistance agreements with State and local law enforcement agencies and, in connection with the agreements and otherwise, train employees of those agencies, when necessary, with or without reimbursement;

(8) provide laboratory assistance to State and local law enforcement agencies, with or without reimbursement;

(9) obtain insurance for official motor vehicles operated in foreign countries; and

(10)(A) when necessary for the performance of official business—

(i) acquire in foreign countries real property by lease for periods not greater than 10 years and personal property for use in foreign countries by purchase, lease, or otherwise, and

(ii) manage, maintain, repair, improve, and insure by purchase of commercial insurance policies properties referred to in clause (i), and

(B) when appropriate, dispose of (by sale, rent, transfer, or otherwise) properties referred to in subparagraph (A)(i).

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CHAPTER 7—GENERAL ACCOUNTING OFFICE

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Subchapter III—Personnel

§ 731. General

(a) * * *

* * * * * * *

(e) The Comptroller General may procure the services of experts and consultants under section 3109 of title 5 at rates not in excess of the maximum daily rate for [GS–18 under section 5332 of such title,] *level V of the Executive Schedule, except that the services of not more than—*

(1) 15 experts and consultants may be procured for not more than 3 years; and

(2) 10 experts and consultants may be procured permanently, temporarily, or intermittently to carry out sections 717(b)–(d) and 719(b)(1)(A) of this title at rates that are not more than the rate for level V of the Executive Schedule.

* * * * * * *

§ 732. Personnel management system

(a) * * *

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(c) Under the personnel management system—

(1) the Comptroller General shall publish a schedule of basic pay rates for officers and employees of the Office;

(2) except as provided in clause (4) of this subsection and section 733(a)(3)(A) of this title, the highest basic pay rate under the pay schedule may not be more than the highest basic rate for GS–15;

(3) except as provided under section 733(a)(3)(B) of this title or section 5349(a) of Title 5, basic pay rates of officers and employees of the Office shall be adjusted at the same time and to the same extent as basic pay rates of the General Schedule are adjusted;

(4) the pay schedule for officers and employees of the Office may provide that the basic pay rates for not more than 129 positions may be at rates not more than the rate of basic pay payable for [grade GS–18 of the General Schedule,] *level V of the Executive Schedule,* less the number of positions in the General Accounting Office Senior Executive Service under section 733 of this title (except positions included in the Service under section 733(c) of this title); and

(5) officers and employees of the Office are entitled to grade and basic pay retention consistent with subchapter VI of chapter 53 of title 5.

* * * * * * *

Subchapter IV—Personnel Appeals Board

§ 751. Organization

(a) * * *

* * * * * * *

(e) While carrying out a member's duties (including travel), a member who is not an officer or employee of the United States Government is entitled to basic pay at a rate equal to the daily rate of basic pay payable for [grade GS–18 of the General Schedule.] *level V of the Executive Schedule.* Each member is entitled to travel expenses and per diem allowances under section 5703 of title 5.

§ 752. Chairman and General Counsel

(a) * * *

(b)(1) The Comptroller General shall appoint as General Counsel of the Board an individual the Chairman selects. The General Counsel serves at the pleasure of the Chairman.

(2) The Chairman shall fix the pay of the General Counsel. The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for [grade GS–16] *above GS–15* of the General Schedule.

(3) The General Counsel shall—

(A) investigate an allegation about a prohibited personnel practice under section 732(b)(2) of this title to decide if there are reasonable grounds to believe the practice has occurred, exists, or will be taken by an officer or an employee of the General Accounting Office;

(B) investigate an allegation about a prohibited political activity under section 732(b)(3) of this title;

(C) investigate a matter under the jurisdiction of the Board if the Board or a member of the Board requests; and

(D) help the Board carry out its duties and powers.

* * * * * * *

CHAPTER 38—ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

§ 3801. Definitions

(a) For purposes of this chapter—

(1) "authority" means—

(A) an executive department;

(B) a military department;

(C) an establishment (as such term is defined in section 11(2) of the Inspector General Act of 1978) which is not an executive department; and

(D) the United States Postal Service;

(2) "authority head" means—

(A) the head of an authority; or

(B) an official or employee of the authority designated, in regulations promulgated by the head of the authority, to act on behalf of the head of the authority;

(3) "claim" means any request, demand, or submission—

(A) made to an authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(B) made to a recipient of property, services, or money from an authority or to a party to a contract with an authority—

(i) for property of services if the United States—

(I) provided such property or services;

(II) provided any portion of the funds for the purchase of such property or services; or

(III) will reimburse such recipient or party for the purchase of such property or services; or

(ii) for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(I) provided any portion of the money requested or demanded; or

(II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(C) made to an authority which has the effect of decreasing an obligation to pay or account for property, services, or money,

except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1954;

(4) "investigating official" means an individual who—

(A)(i) in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, is the Inspector General of that authority or an officer or employee of such Office designated by the Inspector General;

(ii) in the case of an authority in which an Office of Inspector General is not established by the Inspector General Act of 1978 or by any other Federal law, is an officer or employee of the authority designated by the authority head to conduct investigations under section 3803(a)(1) of this title; or

(iii) in the case of a military department, is the Inspector General of the Department of Defense or an officer or employee of the Office of Inspector General of the Department of Defense who is designated by the Inspector General; and

(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O–7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for [grade GS–16] *above GS–15* under the General Schedule;

(5) "knows or has reason to know", for purposes of establishing liability under section 3802, means that a person, with respect to a claim or statement—

(A) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(B) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(C) acts in reckless disregard of the truth or falsity of the claim or statement,

and no proof of specific intent to defraud is required;

(6) "person" means any individual, partnership, corporation, association, or private organization;

(7) "presiding officer" means—

(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, an administrative law judge appointed in the authority pursuant to section 3105 of such title or detailed to the authority pursuant to section 3344 of such title; or

(B) in the case of an authority to which the provisions of such subchapter do not apply, an officer or employee of the authority who—

(i) is selected under chapter 33 of title 5 pursuant to the competitive examination process applicable to administrative law judges;

(ii) is appointed by the authority head to conduct hearings under section 3803 of such title;

(iii) is assigned to cases in rotation so far as practicable;

(iv) may not perform duties inconsistent with the duties and responsibilities of a presiding officer;

(v) is entitled to pay prescribed by the Office of Personnel Management independently of ratings and recommendations made by the authority and in accordance with chapter 51 of such title and subchapter III of chapter 53 of such title;

(vi) is not subject to performance appraisal pursuant to chapter 43 of such title; and

(vii) may be removed, suspended, furloughed, or reduced in grade or pay only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing by such Board;

(8) "reviewing official" means any officer or employee of an authority—

(A) who is designated by the authority head to make the determination required under section 3803(a)(2) of this title;

(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O–7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for [grade GS–16] *above GS–15* under the General Schedule; and

(C) who is—

(i) not subject to supervision by, or required to report to, the investigating official; and

(ii) not employed in the organizational unit of the authority in which the investigating official is employed; and

(9) "statement" means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(A) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(B) with respect to (including relating to eligibility for)—

(i) a contract with, or a bid or proposal for a contract with; or

(ii) a grant, loan, or benefit from,

an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit,

except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1954.

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TITLE 33, UNITED STATES CODE

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CHAPTER 12—RIVER AND HARBOR IMPROVEMENTS GENERALLY

Subchapter I—General Provisions

§ 569a. Temporary employment of experts or consultants; compensation

The Chief of Engineers is authorized to procure the temporary or intermittent services of experts or consultants or organizations thereof in connection with civil functions of the Corps of Engineers without regard to chapter 51 and subchapter III of chapter 53 of Title 5: *Provided,* That individuals so engaged may be paid at rates not to exceed the daily equivalent of the rate for [GS–18] *level V of the Executive Schedule* for each day of their services.

* * * * * * *

CHAPTER 17—NATIONAL OCEAN SURVEY

Subchapter I—General Provisions

§ 857–16. Compensation and travel expenses

Members of the Committee shall each be entitled to receive compensation not to exceed the daily rate for [a GS–18] *level V of the Executive Schedule* for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Committee. In addition, while away from their homes or regu-

lar places of business in the performance of the duties of the Committee, each member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of Title 5.

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CHAPTER 22—SEA GRANT COLLEGES AND MARINE SCIENCE DEVELOPMENT

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Subchapter II—National Sea Grant College Program

§ 1123. Establishment and administration of program

(a) * * *

(b) APPOINTMENT AND COMPENSATION OF DIRECTOR.—(1) The Secretary shall appoint a Director of the national sea grant college program who shall be a qualified individual who has—

(A) knowledge or expertise in fields related to ocean, coastal, and Great Lakes resources; and

(B) appropriate administrative experience.

(2) The Director shall be appointed and compensated, without regard to the provisions of Title 5 governing appointments in the competitive service, at a rate not in excess of the maximum rate for [GS-18 of the General Schedule under section 5332 of such title.] *level V of the Executive Schedule.*

(c) DUTIES OF DIRECTOR.—The Director shall administer the national sea grant college program subject to the supervision of the Secretary and the Under Secretary. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

(1) apply the long-range planning guidelines and the priorities established by the Secretary under subsection (a) of this section;

(2) advise the Under Secretary with respect to the expertise and capabilities which are available within or through the national sea grant college program, and provide (as directed by the Under Secretary) those which are or could be of use to other offices and activities within the Administration;

(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 1124 and 1125 of this title to assure that the objective set forth in section 1121(b) of this title is implemented;

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national sea grant college program, on a cooperative or other basis;

(5) encourage cooperation and coordination with other Federal programs concerned with ocean, coastal, and Great Lakes resources conservation and usage;

(6) advise the Secretary on the designation of sea grant colleges and sea grant regional consortia and, in appropriate cases, if any, on the termination or suspension of any such designation; and

(7) encourage the formation and growth of sea grant programs.

(d) POWERS OF SECRETARY.—To carry out the provisions of this subchapter, the Secretary may—

(1) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with the civil service laws; except that five positions may be established without regard to the provisions of Title 5 governing appointments in the competitive service, but the pay rates for such positions may not exceed the maximum rate for [GS–18 of the General Schedule under section 5332 of such title;] *level V of Executive Schedule;*

(2) make appointments with respect to temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5;

(3) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other services, offices, and programs in the Administration, any information of research, educational, training, and other value in fields related to ocean and coastal resources and with respect to ocean, coastal, and Great Lakes resources, without regard to section 501 of Title 44;

(4) enter into contracts, cooperative agreements, and other transactions without regard to section 5 of Title 41;

(5) accept donations and voluntary and uncompensated serves, notwithstanding section 1342 of Title 31;

(6) accept funds from other Federal departments, agencies (including agencies within the Administration), and instrumentalities to pay for grants made, and contracts entered into, by the Secretary; and

(7) issue such rules and regulations as may be necessary and appropriate.

* * * * * * *

§ 1128. Sea grant review panel

(a) * * *

* * * * * * *

(c) MEMBERSHIP, TERMS, AND POWERS.—(1) The panel shall consist of 15 voting members who shall be appointed by the Secretary. The Director and a director of a sea grant program who is elected by the various directors of sea grant programs shall serve as nonvoting members of the panel. Not less than 8 of the voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields included in marine science. The other voting members shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity which is appropriate to, and important for, any effort to enhance the understanding, assessment, development, utilization, or conservation of ocean, coastal, and Great Lakes resources. No individual is eligible to be a voting

member of the panel if the individual is (A) the director of a sea grant college, sea grant regional consortium, or sea grant program; (B) an applicant for, or beneficiary (as determined by the Secretary) of, any grant or contract under section 1124 or 1125 of this title; or (C) a full-time officer or employee of the United States.

(2) The term of office of a voting member of the panel shall be 3 years, except that of the original appointees, five shall be appointed for a term of 1 year, five shall be appointed for a term of 2 years, and five shall be appointed for a term of 3 years. At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

(3) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

(4) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

(5) Voting members of the panel shall—

(A) receive compensation at the daily rate for [GS–18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* when actually engaged in the performance of duties for such panel; and

(B) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

(6) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Director.

(7) The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b) of this section.

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CHAPTER 26—WATER POLLUTION PREVENTION AND CONTROL

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Subchapter III—Standards and Enforcement

§ 1320. International pollution abatement

(a) * * *

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(e) COMPENSATION OF BOARD MEMBERS.—Board members, other than officers or employees of Federal, State, or local governments, shall be for each day (including travel-time) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for [grade GS–18, as provided in the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule* and shall, notwithstanding the limitations of sections 5703 and

5704 of Title 5, be fully reimbursed for travel, subsistence, and related expenses.

* * * * * * *

§ 1325. National Study Commission

(a) * * *

* * * * * * *

(f) COMPENSATION AND ALLOWANCES.—The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for [Grade GS–18, as provided in the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in the Government service employed intermittently.

* * * * * * *

Subchapter V—General Provisions

§ 1374. Effluent Standards and Water Quality Information Advisory Committee

(a) * * *

* * * * * * *

(c) SECRETARY; LEGAL COUNSEL; COMPENSATION.—(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of Title 5.

(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for [grade GS–18, as provided in the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

TITLE 35, UNITED STATES CODE

PART I—PATENT AND TRADEMARK OFFICE

CHAPTER 1—ESTABLISHMENT, OFFICERS, FUNCTIONS

§ 7. Board of Patent Appeals and Interferences

(a) * * *

* * * * * * *

(c) Whenever the Commissioner considers it necessary, in order to keep current the work of the Board of Patent Appeals and Interferences, the Commissioner may designate any patent examiner of the primary examiner grade or higher, having the requisite ability, to serve as examiner-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Patent Appeals and Interferences. Not more than one of the members of the Board of Patent Appeals and Interferences hearing an appeal or determining an interference may be an examiner so designated. The Secretary of Commerce is authorized to fix the pay of each designated examiner-in-chief in the Patent and Trademark Office at not to exceed the maximum rate of basic pay payable for [grade GS-16] *above GS—15* of the General Schedule under section 5332 of title 5. The rate of basic pay of each individual designated examiner-in-chief shall be adjusted, at the close of the period for which that individual was designated to act as examiner-in-chief, to the rate of basic pay which that individual would have been receiving at the close of such period if such designation had not been made.

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TITLE 36, UNITED STATES CODE

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CHAPTER 9—NATIONAL OBSERVANCES

§ 169j–5. Activities of Martin Luther King, Jr. Federal Holiday Commission

(a) DIRECTOR AND STAFF.—The Commission may appoint a director and a staff of not more than five persons, without regard to the provisions of Title 5 governing appointments in the competitive service. Subject to the availability of sufficient funds, the Commission shall set the rates of pay for the director and staff, except that the director may not be paid at a rate in excess of the maximum rate of pay payable for [grade GS-18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule* and no staff member may be paid at a rate in excess of the maximum rate of pay payable for grade GS-13 of such General Schedule.

* * * * * * *

CHAPTER 46—UNITED STATES HOLOCAUST MEMORIAL COUNCIL

§ 1403. Compensation; travel expenses; full-time officers or employees of United States or Members of Congress

(a) Except as provided in subsection (b) of this section, members of the Council are each authorized to be paid the daily equivalent of the maximum annual rate of basic pay in effect for [grade GS-18 of the General Schedule] *level V of the Executive Schedule* for

each day (including traveltime) during which they are engaged in the actual performance of duties of the Council. While away from their homes or regular places of business in the performance of sevices for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of Title 5.

§ 1404. Administrative provisions

(a) * * *

(b) EXPERTS AND CONSULTANTS.—The Council may obtain the services of experts and consultants in accordance with the provisions of section 3109 of Title 5, at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for [grade GS-18 of the General Schedule.] *level V of the Executive Schedule.*

§ 1405. Staff

(a) EXECUTIVE DIRECTOR.—The council shall, without regard to section 5311(b) of Title 5, have an Executive Director who shall be appointed by the Chairperson of the Council, subject to confirmation of the Council and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for [grade GS-18 of the General Schedule.] *level V of the Executive Schedule.* The Executive Director shall serve at the pleasure of the Council.

(b) APPOINTMENT OF EMPLOYEES.—The Executive Director shall have authority to—

(1) appoint employees in the competitive service subject to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and general schedule pay rates; and

(2) appoint and fix the compsensation (at a rate not to exceed the maximum rate of basic pay payable for [grade GS-18 of the General Schedule] *level V of the Executive Schedule* of up to three employees notwithstanding any other provision of law; and

(3) implement decisions of the Council, in the manner directed by the Council, and perform such other functions as may be assigned from time to time by the Council, the Executive Committee of the Council, or the Chairperson of the Council.

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TITLE 40, UNITED STATES CODE

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CHAPTER 19—CAPITOL AND WHITE HOUSE—PENNSYLVANIA AVENUE DEVELOPMENT

§ 872. Pennsylvania Avenue Development Corporation

(a) * * *

* * * * * * *

(h) COMPENSATION.—Members of the Board of Directors who are officers or employees of the Federal or District of Columbia government shall receive no additional compensation by virtue of their membership on the Board. Other members of the Board, when engaged in the activities of the Corporation, shall be entitled to receive compensation at the daily equivalent of the rate for [GS–18 of the General Schedule,] *level V of the Executive Schedule,* and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703(b)–(d) and 5707) for persons in the Government service employed intermittently.

§ 873. Board of Directors

(a) * * *

(b) PROCUREMENT OF SERVICES OF EXPERTS.—The Board of Directors is authorized to procure the temporary (not in excess of one year) or intermittent services of city planners, architects, engineers, appraisers, and other experts or consultants or organizations thereof in accordance with section 3109 of Title 5, but at rates for individuals not in excess of the rate in effect for [grade GS–18 of the General Schedule.] *level V of the Executive Schedule.*

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CHAPTER 22—FEDERAL TRIANGLE DEVELOPMENT

§ 1106. International Cultural and Trade Center Commission

(a) * * *

* * * * * * *

(d) STAFF OF COMMISSION—

(1) GENERAL RULE.—The Commission shall have a staff, including an executive director. Such staff shall be composed of individuals who may either be appointed under paragraph (2) or detailed under paragraph (3); except that the staff of the Commission may not at any time be composed of more than 15 individuals.

(2) AUTHORITY TO APPOINT.—The Commission may appoint and fix the pay of not to exceed 10 individuals, including an individual to serve as the executive director of the Commission. Staff appointed under this paragraph shall be appointed subject to the provisions of Title 5, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; except that—

(A) the individual appointed to serve as the executive director and one other individual appointed to the staff of

the Commission may be appointed and compensated without regard to such provisions; and

(B) the pay of any individual (other than the 2 individuals referred to in subparagraph (A)) appointed under this paragraph shall be at a rate not to exceed the maximum rate of basic pay payable for [GS-17] *above GS-15* of the General Schedule.

(3) DETAIL.—Subject to paragraph (1), upon request of the Commission, the Secretary of State, the Secretary of Commerce, the Secretary of Agriculture, the Special Trade Representative, the Administrator, and the Director of the United States Information Agency may detail, on a reimbursable basis, such of the personnel of the department or agency such person heads as may be necessary to assist the Commission in carrying out its duties under this chapter.

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TITLE 41, UNITED STATES CODE

CHAPTER 1—GENERAL PROVISIONS

§ 46. Committee for Purchase From the Blind and Other Severely Handicapped

(a) * * *

* * * * * * *

(e) PAY AND TRAVEL EXPENSES.—(1) Except as provided in paragraph (2), members of the Committee shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for [grade GS-18 of the General Schedule] *level V of the Executive Schedule* for each day (including traveltime) during which they are engaged in the actual performance of services for the Committee.

(2) Members of the Committee who are officers or employees of the Government shall receive no additional pay on account of their service on the Committee.

(3) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the Government service are allowed expenses under section 5703(b) of Title 5.

CHAPTER 7—OFFICE OF FEDERAL PROCUREMENT POLICY

§ 422. Cost accounting standards board

(a) * * *

(b) SENIOR STAFF.—The Administrator, after consultation with the Board, may appoint an executive secretary and two additional staff members without regard to the provisions of Title 5, governing appointments in the competitive service, and may pay such employees without regard to the provision of chapter 51 and subchapter III of chapter 53 of such title relating to classification and Gen-

eral Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for [GS-18 of the General Schedule.] *Level V of the Executive Schedule.*

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TITLE 42 UNITED STATED CODE

CHAPTER 6A—PUBLIC HEALTH SERVICE

Subchapter I—Administration

§ 210. Pay and allowances

(a) * * *

* * * * * * *

(c) MEMBERS OF NATIONAL ADVISORY OR REVIEW COUNCILS OR COMMITTEE.—(c) Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this chapter, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding ex officio members, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary, shall be entitled to received compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for [grade GS-18 of the General Schedule.] *level V of the Excutive Schedule* including traveltime; and while away from their homes or regular polaces of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

* * * * * * *

Subchapter II—General Powers and Duties

PART D—PRIMARY HEALTH CARE

Subpart II—National Health Service Corps Program

§ 254j. National Advisory Council on National Health Service Corps

(a) * * *

(b)(1) TERM OF MEMBERS; COMPENSATION; EXPENSES.—Members of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occuring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may not be reappointed to the Council.

(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule.] *level V of the Executive Schedule,* and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government Service employed intermittently.

* * * * * * *

Subchapter III—National Research Institutes

PART B—GENERAL PROVISION RESPECTING NATIONAL RESEARCH INSTITUTES

§ 284a. Advisory Councils

(a) * * *

(b) MEMBERSHIP; COMPENSATION.—(1) Each advisory council shall consist of ex officio members and not more than eighteen members appointed by the Secretary. The ex officio members shall be nonvoting members.

(2) The ex officio members of an advisory council shall consist of—

(A) the Secretary, the Director of NIH, the Director of the national research institute for which the council is established, the Chief Medical Direcor of the Veterans' Administration or the Chief Dental Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

(B) such addtional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

(A) Two-thirds of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including not less than two individuals who are leaders in the fields of public health and the behavioral or social sciences) relevant to the activities of the national research institute for which the advisory council is established.

(B) One-third of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for services on the advisory council. The other members of an advisory council shall receive, for each day (including traveltime) they are

engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for [grade GS-18 of the General Schedule.] *level V of the Executive Schedule.*

Subchapter III—National Research Institutes

PART C—SPECIFIC PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

Subpart 3—National Institute of Diabetes and Digestive Kidney Diseases

§ 285c–4. National Diabetes Advisory Board, National Digestive Diseases Advisory Board, and National Kidney and Urologic Diseases Advisory Board

(a) * * *

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(c) COMPENSATION.—Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for [grade GS–18 of the General Schedule] *level V of the Executive Schedule* for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

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Subpart 4—National Institute of Arthritis and Musculoskeletal and Skin Diseases

§ 285d–7. National Arthritis Advisory Board

(a) * * *

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(c) COMPENSATION.—Members of the Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Advisory Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for [grade GS–18 of the General Schedule] *level V of the Executive Schedule* for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

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PART E—OTHER AGENCIES OF NIH

Subpart 1—Division of Research Resources

§ 287a. Advisory Council

(a) * * *

(b) MEMBERSHIP; EX OFFICIO MEMBERS; COMPENSATION.—(1) The advisory council shall consist of ex officio members and not more than eighteen members appointed by the Secretary.

(2) The ex officio members of the advisory council shall consist of—

(A) the Secretary, the Director of NIH, the Director of the Division of Research Resources, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) The members of the advisory council who are not ex officio members shall be appointed as follows:

(A) Two-thirds of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Division.

(B) One-third of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, law, health, policy, economics, and management.

(4) Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of the advisory council shall receive, for each day (including traveltime) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for [grade GS–18 of the General Schedule.] *level V of the Executive Schedule.*

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Subpart 3—National Center for Nursing Research

§ 287c–2. Advisory council

(a) * * *

(b) MEMBERSHIP; EX OFFICIO MEMBERS; COMPENSATION.—(1) The advisory council shall consist of ex officio members and not more than eighteen members appointed by the Secretary.

(2) The ex officio members of the advisory council shall consist of—

(A) the Secretary, the Director of NIH, the Director of the Center, the Chief Nursing Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the

Director of the Division of Nursing of the Health Resources and Services Administration (or the designees of such officers), and

(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) The members of the advisory council who are not ex officio members shall be appointed as follows:

(A) Two-thirds of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center. Of the members appointed pursuant to this subparagraph, at least seven shall be professional nurses who are recognized experts in the area of clinical practice, education, or research.

(B) One-third of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, law, health, policy, economics, and management.

(4) Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of the advisory council shall receive, for each day (including traveltime) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for [grade GS-18 of the General Schedule.] *level V of the Executive Schedule.*

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Subchapter III-A—Administration and Coordination of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse

PART A—ADMINISTRATION AND INSTITUTES

§ 290aa-3a. Advisory councils.

(a) * * *

(b) MEMBERSHIP; APPOINTMENT; COMPENSATION.—(1) Each advisory council shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

(2) The ex officio members of an advisory council shall consist of—

(A) the Secretary, the Administrator, the Director of the Institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavorial or social sciences) relevant to the activities of the Institute for which the advisory council is established.

(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including traveltime) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for [grade GS-18 of the General Schedule.] *level V of the Executive Schedule.*

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Subchapter V—Health Research and Teaching Facilities and Training of Professional Health Personnel

PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

§ 295g-8b. Advanced financial distress assistance

(a) * * *

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(c) REVIEW PANEL; APPOINTMENT, ETC.—The panel described in subsection (b)(3) of this section shall be appointed by the Secretary within thirty days after the date of receipt of the school's plan and shall be dissolved no later than forty-five days after the panel's recommendation has been transmitted to the Secretary. Members of the panel shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for [grade GS-18 of the General Schedule] *level V of the Executive Schedule* for each day (including traveltime) during which they perform duties.

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PART H—GRADUATE MEDICAL EDUCATION

§ 295i. Council on Graduate Medical Education

(a) * * *

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(g) COMPENSATION; REIMBURSEMENT FOR EXPENSES.—Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for [GS-18 under the General

Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

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Subchapter XII—Safety of Public Water Systems

PART E—GENERAL PROVISIONS

§ 300j–5. National Drinking Water Advisory Council

(a) * * *

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(c) COMPENSATION AND ALLOWANCES; TRAVEL EXPENSES.—Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule] *level V of the Executive Schedule* for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of Title 5.

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§ 300j–10. Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation

To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge to his functions under Title XIV of the Public Health Service Act (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for [GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

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Subchapter XVI—President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research

§ 300v. Commission

(a) * * *

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(e)(1) COMPENSATION; TRAVEL EXPENSES, ETC.—Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule] *level V of the Executive Schedule* for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of Title 5.

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Subchapter XIX—Vaccine

PART 2—NATIONAL VACCINE INJURY COMPENSATION PROGRAM

Subpart A—Program Requirements

§ 300aa–19. Advisory Commission on Childhood Vaccines

(a) * * *

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(d) COMPENSATION.—Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall be compensated at a rate not to exceed the daily equivalent of the rate in effect for [grade GS–18 of the General Schedule] *level V of the Executive Schedule* for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, Title 5, for employees serving intermittently.

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CHAPTER 7—SOCIAL SECURITY

Subchapter XI—General Provisions and Professional Standards Review

PART A—GENERAL PROVISIONS

§ 1320a–1. Limitation on use of Federal funds for capital expenditures

(a) * * *

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(i) NATIONAL ADVISORY COUNCIL; ESTABLSIHMENT OR DESIGNATION OF EXISTING COUNCIL; FUNCTIONS; CONSULTATIONS WITH OTHER APPROPRIATE NATIONAL ADVISORY COUNCILS; COMPOSITION; COMPENSATION AND TRAVEL EXPENSES.—(1) The Secretary shall establish a national advisory counsel, or designate an appropriate existing national advisory council, to advise and assist him in the preparation of general regulations to carry out the purposes of this section and on policy matters arising in the administration of this section, including the coordination of activities under this section with those under other parts of this chapter or under other Federal or federally assisted health programs.

(2) The Secretary shall make appropriate provision for consultation between and coordination of the work of the advisory council established or designated under paragraph (1) and the Federal Hospital Council, the National Advisory Health Council, the Health Insurance Benefits Advisory Council, and other appropriate national advisory councils with respect to matters bearing on the purposes and administration of this section and the coordination of activities under this section with related Federal health programs.

(3) If an advisory council is established by the Secretary under paragraph (1), it shall be composed of members who are not otherwise in the regular full-time employ of the United States, and who shall be appointed by the Secretary without regard to the civil service laws from among leaders in the fields of the fundamental sciences, the medical sciences, and the organization, delivery, and financing of health care, and persons who are State or local officials or are active in community affairs or public or civic affairs or who are representative of minority groups. Members of such advisory council, while attending meetings of the council or otherwise serving on business of the council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the maximum rate specified at the time of such service for [grade GS–18 in section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and while away from their homes or regular places of business they may also be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such Title 5 for persons in the Government service employed intermittently.

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PART B—PEER REVIEW OF UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

§ 1320c–2. Contracts with utilization and quality control peer review organizations.

(a) * * *

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(d) REVIEW PRIOR TO TERMINATION OF CONTRACT; MODIFICATION AND TERMINATION; REVIEWING PANEL.—(1) Prior to making any termination under subsection (c)(6)(B) of this section, the Secretary must provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract. Such data and other information shall be reviewed in a timely manner by a panel appointed by the Secretary, and the panel shall submit a report of its findings to the Secretary in a timely manner. The Secretary shall make a copy of the report available to the organization.

(2) The Secretary may accept or not accept the findings of the panel. After the panel has submitted a report with respect to an organization, the Secretary may, with the concurrence of the organization, amend the contract to modify the scope of the functions to be carried out by the organization, or in any other manner. The Secretary may terminate a contract under the authority of subsection (c)(6)(B) of this section upon 90 days notice after the panel has submitted a report, or earlier if the organization so agrees.

(3) A panel appointed by the Secretary under this subsection shall consist of not more than five individuals, each of whom shall be a member of a utilization and quality control peer review organization having a contract with the Secretary under this part. While serving on such panel individuals shall be paid at a per diem rate not to exceed the current per diem equivalent at the time that service on the panel is rendered for [grade GS–18 under section 5332 of Title 5] *level V of the Executive Schedule.* Appointments shall be made without regard to Title 5.

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Subchapter XVIII—Health Insurance for Aged and Disabled

PART C—MISCELLANEOUS PROVISIONS

§ 1395oo. Provider Reimbursement Review Board

(a) * * *

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(h) COMPOSITION AND COMPENSATION.—The Board shall be composed of five members appointed by the Secretary without regard to the provisions of Title 5, governing appointments in the competitive services. Two of such members shall be representative of providers of services. All of the members of the Board shall be persons knowledgeable in the field of payment of providers of services, and at least one of them shall be a certified public accountant. Members of the Board shall be entitled to receive compensation at rates

fixed by the Secretary, but not exceeding the rate specified (at the time the service involved is rendered by such members) for [grade GS–18 in section 5332 of Title 5.] *level V of the Executive Schedule.* The term of office shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

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CHAPTER 16—NATIONAL SCIENCE FOUNDATION

§ 1863. National Science Board

(a) * * *

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(g) APPOINTMENT AND ASSIGNMENT OF STAFF; COMPENSATION; SECURITY REQUIREMENTS.—The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consultation with the Chairman of the Board and assigned at the direction of the Board. The professional members of such staff may be appointed without regard to the provision of Title 5 governing appointments in the competitive service, and the provisions of chapter 51 of Title 5 relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in [grade GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this chapter. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 1873(a) of this title.

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§ 1873. Employment of personnel

(a) * * *

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(c) COMPENSATION OF MEMBERS OF BOARD AND SPECIAL COMMISSIONS.—The members of the Board and the members of each special commission shall receive compensation for each day engaged in the business of the Foundation at a rate fixed by the Chairman but not exceeding the rate specified for the daily rate for [GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* and shall be allowed travel expenses as authorized by section 5703 of Title 5.

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CHAPTER 19B—WATER RESOURCES PLANNING

Subchapter 1—Water Resources Council

§ 1962a–4. Administrative provisions

(a) HEARINGS PROCEEDINGS, EVIDENCE, REPORTS; OFFICE SPACE; USE OF MAILS; PERSONNEL; CONSULTANTS; MOTOR VEHICLES; NECESSARY EXPENSES; OTHER POWERS.—For the purpose of carrying out the provisions of this chapter, the Council may: (1) hold such hearings, sit and act at such times and places, take such testimony, received such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5; (5) procure services as authorized by section 3109 of Title 5, at rates not in excess of the daily equivalent of the rate prescribed for [grade GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule*, in the case of individual experts or consultants; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

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Subchapter II—River Basin Commissions

§ 1962b–4. Administrative provisions

(a) HEARINGS, PROCEEDINGS, EVIDENCE, REPORTS; OFFICE SPACE; USE OF MAILS; PERSONNEL, CONSULTANTS, AND PROFESSIONAL SERVICE CONTRACTS; PERSONNEL FROM OTHER AGENCIES; RETIREMENT AND EMPLOYEE BENEFIT SYSTEM FOR PERSONNEL WITHOUT COVERAGE; MOTOR VEHICLES; NECESSARY EXPENSES; OTHER POWERS.—For the purpose of carrying out the provisions of this sub-chapter, each river basin commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;

(4) employ and compensate such personnel as it deems advisable, including consultants, at rates not in excess of the daily equivalent of the rate prescribed for [grade GS–18 under section 5332 of Title 5,] *level V of the Executive Schedule,* and retain and compensate such professional or technical service firms as its deems advisable on a contract basis;

(5) arrange for the services of personnel from any State or the United States, or any subdivision or agency thereof, or any intergovernmental agency;

(6) make arrangements, including contracts, with any participating government, except the United States or the District of Columbia, for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for or continuing in another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;

(7) purchase, hire, operate, and maintain passenger motor vehicles; and

(8) incur such necessary expenses and exercise such other powers as are consistent with an reasonably required to perform its functions under this chapter.

§ 1962b–5. Compensation of members and chairman

(a) * * *

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(c) COMPENSATION OF CHAIRMAN.—The per annum compensation of the chairman of each river basin commission shall be determined by the President, but when employed on a full-time annual basis shall not exceed the maximum scheduled rate for [grade GS–18] *level V of the Executive Schedule* or when engaged in the performance of the commission's duties on an intermittent basis such compensation shall be not more than $100 per day and shall not exceed $12,000 in any year.

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CHAPTER 26—NATIONAL SPACE PROGRAM

Subchapter II—Coordination of Aeronautical and Space Activities

§ 2473. Functions of the Administration

(a) * * *

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(c) In the performance of its functions the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, except that (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint not more than four hundred and twenty-five of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of the highest

rate of [grade 18 of the General Schedule,] *level V of the Executive Schedule*, and (B) to the extent the Administrator deems such acton necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel under the General Schedule, and fix their compensation accordingly;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities aeronautical and space vehicles, quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within and outside the continental United States; to acquire by lease or otherwise, through the Administrator of General Services buildings, or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to section 34 of Title 40; to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended; and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 3324(a) and (b) of Title 31, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purpose of this chapter, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration.

(6) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration, and any such department or agency is authorized, notwithstanding

any other provision of law, to transfer to or to receive from the Administration, without reimbursement, aeronautical and space vehicles, and supplies and equipment other than administrative supplies or equipment;

(7) to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(8) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this chapter with related scientific and other activities being carried on by other public and private agencies and organizations;

(9) to obtain services as authorized by section 3109 of Title 5, but at rates for individuals not to exceed the per diem rate equivalent to the rate for [GS–18;] *level V of the Executive Schedule;*

(10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;

(11) to provide by concession, without regard to section 303b of Title 40, on such terms as the Administrator may deem to be appropriate and to be necessary to protect the concessioner against loss of his investment in property (but not anticipated profits) resulting from the Administration's discretionary acts and decisions, for the construction, maintenance, and operation of all manner of facilities and equipment for visitors to the several installations of the Administration and, in connection therewith, to provide services incident to the dissemination of information concerning its activities to such visitors, without charge or with a reasonable charge therefor (with this authority being in addition to any other authority which the Administration may have to provide facilities, equipment, and services for visitors to its installations). A concession agreement under this paragraph may be negotiated with any qualified proposer following the consideration to all proposals received after reasonable public notice of the intention to contract. The concessioner shall be afforded a reasonable opportunity to make a profit commensurate with the capital invested and the obligations assumed, and the consideration paid by him for the concession shall be based on the probable value of such opportunity and not on maximizing revenue to the United States. Each concession agreement shall specify the manner in which the concessioner's records are to be maintained, and shall provide for access to any such records by the Administration and the Comptroller General of the United States for a period of five years after the close of the business year to which such records relate. A concessioner may be accorded a possessory interest, consisting of all incidents of ownership except legal title (which shall vest in the United States), in any structure, fixture, or improvement he constructs or locates upon land owned by the United States; and, with the approval of the Administration, such possessory interest may be assigned, transferred,

encumbered, or relinquished by him, and, unless otherwise provided by contract, shall not be extinguished by the expiration or other termination of the concession and may not be taken for public use without just compensation;

(12) with the approval of the President, to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the appropriate Secretary for services in the performance of functions under this chapter to the same extent as that to which they might be lawfully assigned in the Department of Defense;

(13)(A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for $25,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in subsection (a) of this section, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of $25,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration.

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§ 2477. Aerospace Safety Advisory Panel; membership; appointment; term; powers and duties of Panel; Chairman; compensation, travel and other necessary expenses; NASA membership restriction

There is hereby established an Aerospace Safety Advisory Panel consisting of a maximum of nine members who shall be appointed by the Administrator for terms of six years each. The Panel shall review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards and shall perform such other duties as the Administrator may request. One member shall be designated by the Panel as its Chairman. Members of the Panel who are officers or employees of the Federal Government shall receive no compensation for their services as such, but shall be allowed necessary travel expenses or in the alternative, milege for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates and amounts prescribed in sections 5702, 5704 of Title 5), and other necessary expenses incurred by them in the performance of duties vested in the Panel, without regard to the provisions of subchapter I, chapter 57 of Title 5, the Standardized Government Travel Regulations, or section 5731 of Title 5. Members of the Panel appointed from outside the Federal Government shall each receive compensation at a rate not to exceed the per diem rate equivalent to the rate for [GS–18] *level V of the Executive Schedule* for each day such member is engaged in the actual performance of duties vested in the Panel in addition to reimbursement for travel, subsistence, and

other necessary expenses in accordance with the provisions of the foregoing sentence. Not more than four such members shall be chosen from among the officers and employees of the National Aeronautics and Space Administration.

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CHAPTER 35—PROGRAMS FOR OLDER AMERICANS

Subchapter 7—Declaration of Objectives and Definitions

§ 3015. Federal Council on the Aging—Establishment; membership; term; representation of interests; qualification

(a) * * *

(b)(1) INITIAL APPOINTMENTS; VACANCIES; COMPENSATION AND TRAVEL EXPENSES.—Of the members first appointed, five shall be appointed for a term of one year, five shall be appointed for a term of two years, and five shall be appointed for a term of three years, as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily rate specified for [grade GS–18 in section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of Title 5, for persons in the Government service employed intermittently.

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CHAPTER 38—PUBLIC WORKS AND ECONOMIC DEVELOPMENT

§ 3121 note. Congressional findings and statement of purpose

DIRECTOR AND STAFF

SEC. 105. (a) * * *

* * * * * * *

(c) The director and staff of the Council may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be made without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employee subject to the civil service laws and regulations who may be employed by the Council shall retain civil service status without interruption of loss of status or

privilege. In no event shall any employee of the Council other than the staff director receive as compensation an amount in excees of the maximum rate of basic pay payable for [GS-18 of the General Schedule.] *level V of the Executive Schedule.*

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CHAPTER 44—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

§ 3535. Administrative provisions

(a) * * *

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(e) TEMPORARY EMPLOYMENT OF EXPERTS OR CONSULTANTS; COMPENSATION.—The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946, at rates for individuals not to exceed the per diem equivalent to the highest rate for [grade GS-18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.* The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance.

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CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

Subchapter VIII—Administrative Provisions

§ 3788. Personnel and administrative authority

(a) * * *

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(d) EXPERTS AND CONSULTANTS; COMPENSATION.—The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics may procure the services of experts and consultants in accordance with section 3109 of Title 5, relating to appointments in the Federal service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable from time to time for [GS-18 of the General Schedule under section 5332 of Title 5] *level V of the Executive Schedule.*

(e) ADVISORY COMMITTEES; COMPENSATION AND TRAVEL EXPENSES OF COMMITTEE MEMBERS.—The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized to appoint, without regard to the provsions of Title 5, advisory committeed to advise them with respect to the administration of this chapter as they deem necessary. Such committees shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Members of such committees not otherwise in the employ of the United States, while engaged in advising or attending meetings of such committees, shall be compensated at rates to be fixed by the Office but not to exceed the daily equivalent of the rate of pay payable from time to time for [GS-18 of the General

Schedule under section 5332 of Title 5] *level V of the Executive Schedule,* and while away from home or regular place of business thay may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of such Title 5 for persons in the Government services employed intermittently.

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CHAPTER 55—NATIONAL ENVIRONMENTAL POLICY

Subchapter III—Miscellaneous Provisions

§ 4365. Science Advisory Board

(a) * * *

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(h) APPOINTMENT AND COMPENSATION OF SECRETARY AND OTHER PERSONNEL; COMPENSATION OF MEMBERS.—(1) Upon the recommendation of the Board, the Administrator shall appoint a secretary, and such other employees as deemed necessary to exercise and fulfill the Board's powers and responsibilities. The compensation of all employees appointed under this paragraph shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of Title 5.

(2) Members of the Board may be compensated at a rate to be fixed by the President but not in excess of the maximum rate of pay for [grade GS–18, as provided in the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

§ 4372. Office of Environmental Quality

(a) * * *

* * * * * * *

(c) EMPLOYMENT OF PERSONNEL, EXPERTS, AND CONSULTANTS; COMPENSATION.—The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this chapter and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for [GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

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CHAPTER 62—INTERGOVERNMENTAL PERSONNEL PROGRAM

Subchapter IV—General Provisions

§ 4768. Advisory committees; appointment; compensation and travel expenses

(a) * * *

(b) Members of advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including traveltime may receive compensation at rates not exceeding the daily rate for [GS–18;] *level V of the Executive Schedule;* and while so serving away from their homes or regular places of business may be allowed travel expenses, incluidng per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for individuals in the Government service employed intermittently.

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CHAPTER 65—NOISE CONTROL

§ 4914. Development of low-noise-emission products

(a) * * *

(b) CERTIFICATION OF PRODUCTS; LOW-NOISE-EMISSION PRODUCT ADVISORY COMMITTEE.—(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Institute of Standards and Technology, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for [grade GS–18 of the General Schedule] *level V of the Executive Schedule* for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model or product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product as a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administration shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision upon subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

CHAPTER 66—DOMESTIC VOLUNTEER SERVICES

Subchapter IV—Administration and Coordination

§ 5042. Authority of Director

(1) * * *

(2) EMPLOYMENT AND COMPENSATION OF EXPERTS AND CONSULTANTS.—(A) employ experts and consultants or organizations thereof as authorized by section 3109 of Title 5, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable [to a GS-18 employee under section 5332 of such Title,] *at level V of the Executive Schedule,* including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

* * * * * * *

CHAPTER 67—CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM

Subchapter II—Adoption Opportunities

§ 5112. Model adoption legislation and procedures

(a) * * *

(b) PANEL; APPOINTMENT, MEMBERSHIP, FUNCTIONS, ETC.—(1) Not later than ninety days after April 24, 1978, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this subchapter (including, but not limited to, national, State, and local child welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable [to a GS–18 employee under section 5322 [1] of title 5,] *at level V of the Executive Schedule,* including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

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CHAPTER 72—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Subchapter II—Programs and Offices

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

§ 5612. Personnel

(a) * * *

(b) SPECIAL PERSONNEL.—The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix

their compensation at rates not to exceed the rate now or hereafter prescribed for [GS–18 of the General Schedule by section 5332 of Title 5.] *level V of the Executive Schedule.*

(c) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Administrator to assist him in carrying out his functions under this chapter.

(d) EXPERTS AND CONSULTANTS.—The Administrator may obtain services as authorized by section 3109 of Title 5, at rates not to exceed the rate now or hereafter prescribed for [GS–18 of the General Schedule by section 5332 of Title 5.] *level V of the Executive Schedule.*

PART C—NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

§ 5651. Institute structure and operation

(a) * * *

* * * * * * *

(e) ADDITIONAL POWERS.—In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

(2) arrange with and reimburse the heads of Federal agencies for the use of personnel or facilities or equipment of such agencies;

(3) confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

(4) make grants and enter into contracts with public or private agencies, organizations, or individuals, for the partial performance of any functions of the Institute;

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter prescribed for [GS–18 of the General Schedule by section 5332 of Title 5] *level V of the Executive Schedule* and while away from home, or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently; and

(6) assist, through training, the advisory groups established pursuant to section 5633(a)(3) of this title or comparable public or private citizen groups in nonparticipating States in the accomplishment of their objectives consistent with this chapter.

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CHAPTER 79—SCIENCE AND TECHNOLOGY POLICY, ORGANIZATION AND PRIORITIES

Subchapter II—Office of Science and Technology Policy

§ 6614. Policy planning; analysis; advice; establishment of Advisory Panel

(a) * * *

(b)(1) The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel (hereinafter referred to as the "Panel"), whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs.

(2) The Panel shall be composed of (A) tye Director of the Office, or his representative; (B) at least ten members representing the interests of the States, appointed by the Director of the Office after consultation with State officials; and (C) the director of the National Science Foundation, or his representative.

(3)(A) The Director of the Office, or his representative, shall serve as Chairman of the Panel.

(B) The Panel shall perform such functions as the Chairman may prescribe, and shall meet at the call of the Chairman.

(4) Each member of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for [GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and, while so serving away from his home or regular place of business, he may be allowed travel expenses, including per diem in lieu of subsistence in the same manner as the expenses authorized by section 5703(b) of Title 5 for persons in government service employed intermittently.

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§ 6616. Additional functions of Director

(a) * * *

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(c) OFFICERS AND EMPLOYEES; SERVICES; CONTRACTS; PAYMENTS.—In carrying out his functions under this chapter, the Director is authorized to—

(1) appoint such officers and employees as he may deem necessary to perform the functions now or hereafter vested in him and to prescribe their duties;

(2) obtain services as authorized by section 3109 of Title 5 at rates not to exceed the rate prescribed for [grade GS–18 of the General Schedule by section 5332 of Title 5;] *level V of the Executive Schedule;* and

(3) enter into contracts and other arrangements for studies, analyses, and other services with public agencies and with pri-

vate persons, organizations, or institutions, and make such payments as he deems necessary to carry out the provisons of this chapter without legal consideration, without performance bonds, and without regard to section 5 of Title 41.

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Subchapter III—President's Committee on Science and Technology

§ 6632. Membership of Committee

(a) * * *

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(d) COMPENSATION.—Each member of the Committee who is not an officer of the Federal Government shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for [GS–18 of the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of Title 5 for persons in Government service employed intermittently.

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CHAPTER 84—DEPARTMENT OF ENERGY

Subchapter VI—Administrative Provisions

PART A—CONFLICT OF INTEREST PROVISIONS

§ 7211. Definitions

(a) SUPERVISORY EMPLOYEES.—For the purposes of this subchapter, the following officers or employees of the Department are supervisory employees:

(1) an individual holding a position in the Department [at GS–16, GS–17, or GS–18] *above GS–15* of the General Schedule or at level I, II, III, IV, or V of the Executive Schedule, or who is in a position at a comparable or higher level on any other Federal pay scale, or who holds a position pursuant to subsection (b) or (d) of section 7231 of this title, or who is an expert or consultant employed pursuant to section 3109 of Title 5 for more than ninety days in any calendar year and receives compensation at an annual rate equal to or in excess of the minimum rate prescribed for individuals [at GS–16 of the General Schedule;] *above GS–15;*

(2) the Director or Deputy Director of any State, regional, district, local, or other field office maintained pursuant to section 7260 of this title;

(3) an employee or officer who has primary responsibility for the award, review, modification, or termination of any grant, contract, award, or fund transfer within the authority of the Secretary; and

(4) any other employee or officer who, in the judgment of the Secretary, exercises sufficient decisionmaking or regulatory authority so that the provisions of this subchapter should apply to such individual.

* * * * * * *

§ 7231. Officers and employees

(a) * * *

(b) APPOINTMENT OF SCIENTIFIC, ENGINEERING, ETC., PERSONNEL WITHOUT REGARD TO CIVIL SERVICE LAWS; COMPENSATION; TERMINATION OF AUTHORITY.—(1) Subject to the limitations provided in paragraph (2) and to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than three hundred eleven of the scientific, engineering, professional, and administrative personnel of the department without regard to the civil service laws, and may fix the compensation of such personnel not in excess of the maximum rate payable for [GS–18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

(2) The Secretary's authority under this subsection to appoint an individual to such a position without regard to the civil service laws shall cease—

(A) when a person appointed, within four years after October 1, 1977, to fill such position under paragraph (1) leaves such position, or

(B) on the day which is four years after such date, whichever is later.

(c) PLACEMENT OF GS–16, GS–17, and GS–18 POSITIONS WITHOUT REGARD TO SECTION 3324 OF TITLE 5; TERMINATION OF AUTHORITY.—(1) Subject to the provisions of chapter 51 of Title 5, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place [at GS–16, GS–17, and GS–18,] *above GS–15,* not to exceed one hundred seventy-eight positions of the positions subject to the limitations of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of sections 3324 of Title 5, relating to the approval by the Director of the Office of Personnel Management of appointments [under GS–16, GS–17, and GS–18] *above GS–15* if the individual placed in such positions is an individual who is transferred in connection with a transfer of functions under this chapter and who, immediately before October 1, 1977, held a position and duties comparable to those of such positions.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person first appointed to fill such position leaves such position.

(d) APPOINTMENT OF ADDITIONAL SCIENTIFIC, ENGINEERING, ETC., PERSONNEL WITHOUT REGARD TO CIVIL SERVICE LAWS; COMPENSATION.—In addition to the number of positions which may be placed [at GS–16, GS–17, and GS–18] *above GS–15* under section 5108 of Title 5, under existing law, or under this chapter, and to the extent the Secretary deems such action is necessary to the discharge of his functions, he may appoint not more than two hundred of the scien-

tific, engineering, professional, and administrative personnel without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for [GS-18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

(e) DETERMINATION OF MAXIMUM AGGREGATE NUMBER OF POSITIONS.— For the purposes of determining the maximum aggregate number of positions which may be placed [at GS-16, GS-17, or GS-18] *above GS-15* under section 5108(a) of Title 5, 63 percent of the positions established under subsections (b) and (c) of this section shall be deemed GS-16 positions, 25 percent of such positions shall be deemed GS-17 positions, and 12 percent of such positions shall be [deemed GS-18.] *deemed at level V of the Executive Schedule.*

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§ 7233. Experts and consultants

The Secretary may obtain services as authorized by section 3109 of Title 5, at rates not to exceed the daily rate prescribed for [grade GS-18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule* for persons in Government service employed intermittently.

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CHAPTER 85—AIR POLLUTION PREVENTION AND CONTROL

Subchapter II—Emission Standards for Moving Sources

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

§ 7546. Low-emission vehicles

(a) * * *

(b) LOW-EMISSION VEHICLE CERTIFICATION BOARD.—(1) There is established a Low-Emission Vehicle Certification Board to be composed of the Administrator or his designee, the Secretary of Transportation or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Traffic Safety Administration in the Department of Transportation, the Administrator of General Services, and two members appointed by the President. The President shall designate one member of the Board as Chairman.

(2) Any member of the Board not employed by the United States may receive compensation at the rate of $125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(3)(A) The Chairman, with the concurrence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the

Board, but no individual so appointed shall receive compensation in excess of the rate authorized for [GS-18 by section 5332 of Title 5.] *level V of the Executive Schedule.*

(B) The Chairman may fix the time and place of such meetings as may be required, but a meeting of the Board shall be called whenever a majority of its members so request.

(C) The Board is granted all other powers necessary for meeting its responsibilities under this section.

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CHAPTER 90—NEIGHBORHOOD AND CITY REINVESTMENT, SELF-HELP AND REVITALIZATION

Subchapter 1—Neighborhood Reinvestment Corporation

§ 8104. Officers and employees

(a) EMPLOYMENT, COMPENSATION AND BENEFITS.—The board shall have power to select, employ, and fix the compensation and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this subchapter, without regard to the provisions of Title 5 governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation at a rate in excess of the highest rate provided for [GS-18 of the General Schedule under section 5332 of Title 5.] *level V of the Executive Schedule.*

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CHAPTER 102—MENTAL HEALTH SYSTEMS

Subchapter V—Rape Prevention and Control

§ 9511. Grants for Sex Offense Prevention and Control

(a) * * *

(b) ADVISORY COMMITTEE; FUNCTIONS, MEMBERSHIP, ETC.—The Secretary shall appoint an advisory committee to advise, consult with, and make recommendations to the Secretary on the implementation of subsection (a) of this section. The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee. The Secretary shall appoint to such committee persons who are particularly qualified to assist in carrying out the functions of the committee. A majority of the members of the committee shall be women. Members of the advisory committee shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for [grade GS-18 of the General Schedule,] *level V of the Executive Schedule,* for each day (including traveltime) they are engaged in the performance of their duties as members of the advisory committee and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, in the same

manner as authorized by section 5703 of Title 5, for persons in Government service employed intermittently.

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CHAPTER 108—NUCLEAR WASTE POLICY

Subchapter I—Disposal and Storage of High-Level Radioactive Waste, Spent Nuclear Fuel, and Low-Level Radioactive Waste

PART A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

* * * * * * *

§ 10163. Monitored Retrievable Storage Commission

(a) ESTABLISHMENT.—(1)(A) There is established a Monitored Retrievable Storage Review Commission (hereinafter in this section referred to as the "MRS Commission"), that shall consist of 3 members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

(B)(i) Members of the MRS Commission shall be appointed not later than 30 days after December 22, 1987, from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the Nation's nuclear waste management system.

(C) The MRS Commission shall prepare a report on the neeed for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this chapter. In preparing the report under this subparagraph, the MRS Commission shall—

(i) review the status and adequacy of the Secretary's evaluation of the system's advantages and disadvantages of bringing such a facility into the national nuclear waste disposal system;

(ii) obtain comment and available data on monitored retrievable storage from affected parties, including States containing potentially acceptable sites;

(iii) evaluate the utility of a monitored retrievable storage facility from a technical perspective; and

(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this chapter, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the respository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this chapter. Such comparison shall take into consideration the impact on—

(A) repository design and construction;

(B) waste package design, fabrication and standardization;

(C) waste preparation;

(D) waste transportation system;

(E) the reliability of the national system for the disposal of radioactive waste;

(F) The ability of the Secretary to fulfill contractual commitments of the Department under this chapter to accept spent nuclear fuel for disposal; and

(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the Nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the Nation's electric utilites in building and operating such a facility.

(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on November 1, 1989.

(4)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistence in the same manner as is permitted under sections 5702 and 5703 of Title 5.

(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for [GS–18 of the General Schedule,] *level V of the Executive Schedule,* for such staff as may be necessary to carry out its functions.

(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of Title 5 at rates and under such rules as the MRS Commission considers reasonable.

(C) The MRS Commission shall cease to exist 60 days after the submission to Congress of the report required under this section.

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Subchapter IV—Nuclear Waste Negotiator

§ 10248. Administrative powers of Negotiator

In carrying out his functions under this subchapter, the Negotiator may—

(1) appoint such officers and employees as he determines to be necessary and prescribe their duties;

(2) obtain services as authorized by section 3109 of Title 5, at rates not to exceed the rate prescribed for [grade GS–18 of the General Schedule by section 5332 of Title 5;] *level V of the Executive Schedule;*

(3) promulgate such rules and regulations as may be necessary to carry out such functions;

(4) utilize the services, personnel, and facilities of other Federal agencies (subject to the consent of the head of any such agency);

(5) for purposes of performing administrative functions under this subchapter, and to the extent funds are appropriated, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary and on such terms as the Negotiator determines to be appropriate, with any agency or instrumentality of the United States, or with any public or private person or entity;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of Title 31;

(7) adopt an official seal, which shall be judicially noticed;

(8) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

(9) hold such hearings as are necessary to determine the views of interested parties and the general public; and

(10) appoint advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.)

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Subchapter V—Nuclear Waste Technical Review Board

§ 10266. Staff

(a) * * *

(b) PROFESSIONAL STAFF.—(1) Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

(2) Not more than 10 professional staff members may be appointed under this subsection.

(3) Professional staff members may be appointed without regard to the provisions of Title 5, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of

basic pay payable for [GS-18 of the General Schedule.] *level V of the Executive Schedule.*

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§ 10267. Support services

(a) * * *

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(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of Title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for [GS-18 of the General Schedule.] *level V of the Executive Schedule.*

TITLE 45, UNITED STATES CODE

CHAPTER 9—RETIREMENT OF RAILROAD EMPLOYEES

Subchapter I—Railroad Retirement Act of 1934

§ 231f. Railroad Retirement Board

(a) * * *

(b) POWERS AND DUTIES.—(1) The Board shall have and exercise all the duties and powers necessary to administer this subchapter. The Board shall take such steps as may be necessary to enforce such subchapter and make awards and certify payments. Decisions by the Board upon issues of law and fact relating to annuities or death benefits shall not be subject to review by any other administrative or accounting officer, agent, or employee of the United States.

(2) In the case of—

(A) an individual who will have completed ten years of service creditable under this subchapter,

(B) the wife or divorced wife or husband of such an individual,

(C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 231a of this title, and

(D) any other person entitled to benefits under Title II of the Social Security Act [42 U.S.C.A. § 401 et seq.] on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry at the time of his death):

the Board shall provide for the payment on behalf of the managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund of monthly benefits payable under Title II of the Social Security Act [42 U.S.C.A. § 401 eq seq.] which are certified by the Secretary to it for payment under the provisions of Title II of the Social Security Act.

(3) If the Board finds that an applicant is entitled to an annuity or death benefit under the provisions of this subchapter then the Board shall make an award fixing the amount of the annuity or benefit, as the case may be, and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied. For purposes of this section, the Board shall have and exercise such of the powers, duties and remedies provided in subsections (a), (b), (d), and (n) of section 12 of the Railroad Unemployment Insurance Act [45 U.S.C.A. § 362] as are not inconsistent with the express provisions of this subchapter. The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this subchapter, excluding only the power to prescribe rules and regulations, including the power to make decisions on applications for annuities or other benefits: *Provided, however,* That any person aggrieved by a decision on his application for an annuity or other benefit shall have the right to appeal to the Board. Notice of a decision of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made.

(4) The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Fiscal Service of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

(5) The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of this subchapter. All rules, regulations, or decisions of the Board shall require the approval of at least two members, and they shall be entered upon the records of the Board, which shall be a public record.

(6) The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of this subchapter, including subdivision (2) of this subsection. The Board shall have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this subchapter, including subdivision (2) of this subsection. The several district courts of the United States shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the United States District Court for the District of Columbia in such suits may run and be served anywhere in the united States. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress.

(7) Notwithstanding any other provision of law, the Secretary of Health and Human Services shall furnish the Board certified reports of wages, self-employment income, and periods of service and of other records in his possession, or which he may secure, pertinent to the administration of this subchapter, the Railroad Unem-

ployment Insurance Act [45 U.S.C.A. § 351 et seq.], the Milwaukee Railroad Restructuring Act (45 U.S.C.A. § 901 et seq.], and the Rock Island Railroad Transition and Employee Assistance Act [45 U.S.C.A. § 1001 eq seq.]. The Board shall furnish the Secretary of Health and Human Services certified reports of records of compensation and periods of service reported to it pursuant to section 231h of this title, of determinations under section 231a of this title, and of other records in its possession, or which it may secure, pertinent to subsection (c) of this section or to the administration of the Social Security Act 42 U.S.C.A. § 301 et seq.] as affected by section 231q of this title. Such certified reports shall be conclusive in adjudication as to the matters covered therein. *Provided however,* That if the Board or the Secretary of Health and Human Service receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health and Human Services, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

(8) Any department or agency of the United States maintaining records of military service, at the request of the Board, shall certify the Board, with respect to any individual, the number of months of military service which such department or agency finds the individual to have had during any period or periods with respect to which the Board's request is made, the date and manner of entry into such military service, and the conditions under which such service was continued. Any department or agency of the United States which is authorized to make awards of pensions, disability compensation, or any other gratuitous benefits or allowances payable, on a periodic basis or otherwise, under any other Act of Congress on the basis of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the calendar months for all or part of which any such pension, compensation, benefit, or allowance is payable to, or with respect to, the individual, the amounts of any such pension, compensation, benefit, or allowance, and the military service on which such pension, compensation, benefit, or allowance is based. Any certification made pursuant to the provisions of this subdivision shall be conclusive on the Board: *Provided, however,* That if evidence inconsistent with any such certification is submitted, and the claim is in the course of adjudication or is otherwise open for such evidence, the Board shall refer such evidence to the department or agency which made the orginal certification and such department or agency shall make such recertification as in its judgment the evidence warrants. Such recertification, and any subsequent recertification, shall be conclusive, made in the same manner, and subject to the same conditions as an original certification.

(9) The Board shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. All positions to which such individuals are appointed, except one ad-

ministrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted thereform. In the employment of such individuals under the civil service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board, they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. For purposes of its administration of this subchapter or the Railroad Unemployment Insurance Act [45 U.S.C.A. § 351 et seq.], or both, the Board may place, without regard to the numerical limitations contained in section 5108(c)(9) of Title 5, four positions in grade GS–16 of the General Schedule established by that Act, four positions in grade GS–17 of such schedule, and one posiiton in [grade GS–18 of such schedule.] *level V of the Executive Schedule.*

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TITLE 46, UNITED STATES CODE

CHAPTER 131—RECREATIONAL BOATING SAFETY

§ 13110. National Boating Safety Advisory Council

(a) * * *

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(d) When attending meetings of the Council, a member of the Council or a panel may be paid at a rate not more than the rate for [GS–18] *level V of the Executive Schedule.* When serving away from home or regular place of business, the member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for individuals employed intermittently in the Government service. A payment under this section does not make a member of the Council an officer or employee of the United States Government for any purpose.

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TITLE 47, UNITED STATES CODE

CHAPTER 5—WIRE OR RADIO COMMUNICATION

Subchapter VI—Miscellaneous Provisions

§ 611. Telecommunications Policy Study Commission

(a) * * *

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(d) COMPENSATION AND TRAVEL EXPENSES OF MEMBERS: APPOINTMENT AND COMPENSATION OF STAFF.—(1) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or

while otherwise serving at the request of the chairmen, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for [grade GS–18, as provided in the General Schedule under section 5332 of Title 5,] *level V of the Executive Schedule,* including traveltime, and while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(2) The Commission may appoint and fix the pay of such staff as it deems necessary.

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TITLE 49, UNITED STATES CODE

CHAPTER 103—INTERSTATE COMMERCE COMMISSION

Subchapter IV—Rail Services Planning Office

§ 10363. Director

(a) * * *

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(c) The Director is appointed without regard to those provisions of title 5 governing appointments in the competitive service and is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for [GS–18.] *level V of the Executive Schedule.*

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Subchapter V—Office of Rail Public Counsel

§ 10383. Director

(a) * * *

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(c) The Director is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for [GS–18.] *level V of the Executive Schedule.*

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TITLE 50, UNITED STATES CODE

CHAPTER 15—NATIONAL SECURITY

§ 405. Advisory Committees; appointment; compensation of part-time personnel; applicability of other laws

(a) The Director of the Office of Emergency Preparedness, the Director of Central Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this chapter, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a daily rate not to exceed the daily equivalent of the rate of pay in effect for [grade GS–18 of the General Schedule established by section 5332 of Title 5,] *level V of the Executive Schedule,* as determined by the appointing authority.

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